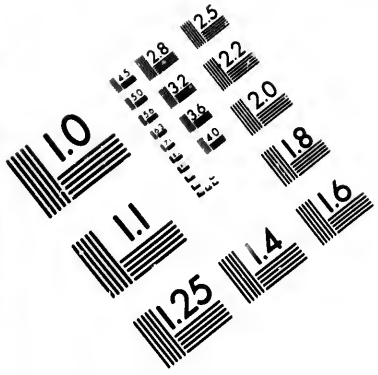


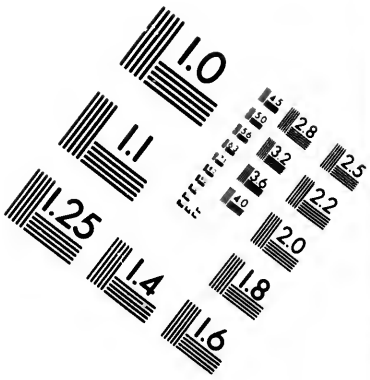


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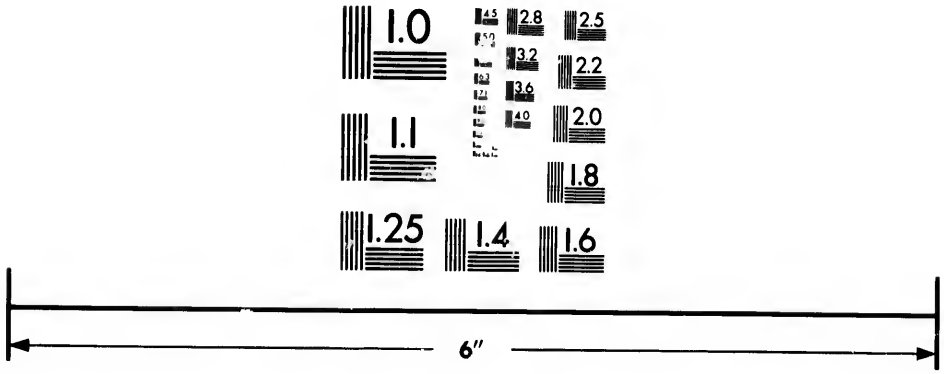


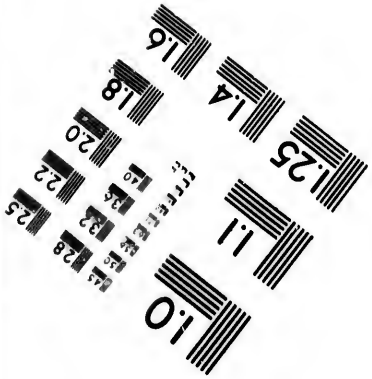


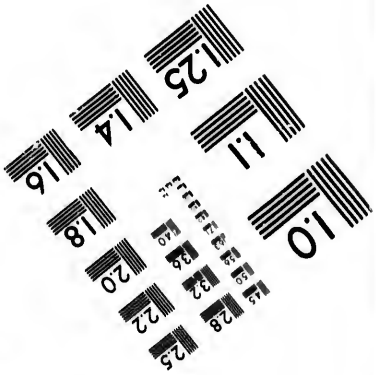


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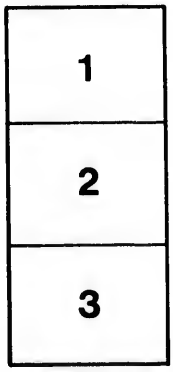


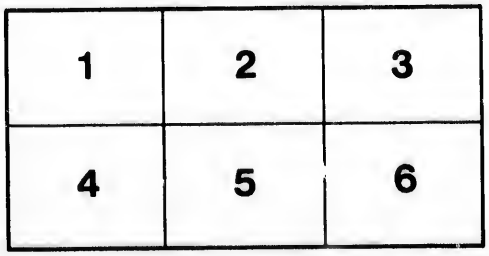


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# IS MANITOBA RIGHT?

A QUESTION OF ETHICS, POLITICS, FACTS AND LAW.

A Review of the Manitoba School Question published by "The Winnipeg Tribune."

PRICE, 15 CENTS.

# INDEX.



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## REFERENCES.

# PREFACE.

It is now about a century since Thomas Jefferson, in a public deliverance, reminded his countrymen of the necessity and wisdom of frequently returning to the consideration of first principles. It is probable that even at that early period of the American national existence, the keen eye of Jefferson had perceived that tendency on the part of his countrymen, which has since been developed into one of the most distinctive traits of the American national character. We refer to the tendency to regard the abstract or philosophical aspects of questions with a feeling somewhat akin to contempt.

Americans are prone to declare with an air of much self-satisfaction that they care nothing for theories, that they are a pre-eminently practical people. Notwithstanding the great material prosperity of the American people, this intense "practicality" has been the cause of much loss and trouble to them already, and has sown the seeds of social and economic disorder which may yet imperil even their national existence.

It is to be feared that Jefferson's wise advice would be almost as applicable to the people of Canada as to those to whom it was tendered. Our forgetfulness of first principles is shown in our readiness to compromise or "fix up," everything in the nature of a dispute, with regard only to a sordid expediency, and to relief from a present difficulty, the solution of which we are always prepared to bequeath to posterity. This *apres moi le deluge* policy in dealing with political and fiscal difficulties is as immoral as it is pusillanimous. The sacrifice of principle to expediency, and the disregard of theoretical soundness in favor of practical con-

venience, may procure smooth sailing for a time, but it is a policy analagous in its results to the proverbial sowing of the wind.

This tendency has been displayed to a very marked degree in certain quarters in discussing and in dealing with the Manitoba School Question —a question involving issues of the most fundamental importance. Besides this peculiar and unfortunate inability to apprehend the question in the abstract, there has been displayed a most extraordinary ignorance and misconception with regard to the actual concrete facts of the case. In many instances the ignorance and misconception are undoubtedly unconscious. In others it is impossible to avoid the conviction that the misapprehension is wilful, and therefore dishonest.

In view of these considerations, and also of the fact that no comprehensive and connected statement of this case from an impartial or a Manitoban standpoint, has yet been presented to the public, the writer has penned these pages. He is fully—even painfully—aware of the imperfections which characterize this effort, but he trusts that at least the salient facts of the case, and the essential principles involved, are placed in such bold, even if rude, relief, that the public cannot fail to see what they are. If he has succeeded this, he considers that he has amply atoned for his rhetorical defects, as he feels that the case of Manitoba is so intrinsically sound and strong, that its presentation with some degree of fulness even by a "'prentice han'" cannot fail to carry conviction to any reader whose mind is open to it.

THE WRITER.

WINNIPEG, June 1st, 1895.

# Is Manitoba Right?

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## A Question of Ethics, Politics, Facts and Law.

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In a state in which the form of government is autocratic, as in Russia at the present time, or aristocratic, as it was in England up till the beginning of the present century, the safety of the form of government does not demand a high average intelligence on the part of the masses. Indeed, in such cases the hold on power is much better secured to the autocrat or the ruling class by the existence of a low average of intelligence in the masses. In such states government is maintained and the laws of the country are framed largely with a view to protecting or increasing the privileges and power of the persons and classes who control the government and make the laws.

The function of the masses in countries governed in this way is to supply by their toil the material resources from which all the power and splendours of the rulers must be drawn, and to furnish by their arms and their blood the military strength necessary to realize the schemes of conquest and aggrandizement which these rulers may conceive, or to defend these rulers in their privileges and possessions from the attacks of foreign or domestic assailants. In such conditions government exists primarily for the benefit of the rulers, and any advantages beyond the means of subsistence which may accrue to the governed are merely incidental. All history shows that religion has been a powerful instrument in the hands of the privileged rulers, in assisting them to maintain their predominance. It has always been, and is at the present time easy to persuade, by the manipulation of religious sanctions, men whose intellectual faculty is in a low state of development that they have duties to the powers that be, which cannot be neglected. It has been equally easy to induce them to overlook the fact that they have rights which are always correlative and commensurate with those duties. Hence, in communities where the intelligence of the common people is low, we have always autocratic or aristocratic government, and almost as invariably we see the civil and political power of the rulers buttressed by, or identified with some ecclesiastical organization, usually in the form of a state church.

There have been forces of various kinds at work, which have produced a constant spread of intelligence amongst the masses, notwithstanding the hostility, more or less pronounced, of the classes or individuals who have been accustomed to regard government, and its powers and privileges, as a hereditary right or perquisite. Simultaneously with the acquisition of knowledge by the masses, comes the demand on their part for a voice in the government. In these communities, where the people as a whole, are the most enlightened, the government is most democratic in form. Democracy is the inevitable outcome of enlightenment on the part of the people as a whole. It is a fact that no true democracy exists at present, or ever has existed. But this is simply because the highest degree of average intelligence

which has ever been attained by any community has been very far short of what may be and will be attained.

## STATE SUPERINTENDED EDUCATION A NECESSITY.

In view of the fact that democratic government presupposes the intelligence of the whole people, it is obvious that, in order to maintain or increase its success, careful provision must be made for the education of the people. This necessity is so self-evident that it has been recognized by all the more enlightened and progressive peoples. Experience has shown that the safety of a democratic state demands that it shall take measures to ensure to all its citizens at least the elements of a liberal education. This can be efficiently accomplished only by the establishment of a system of education under the direct supervision or control of the state. A little reflection will show the enormously increased efficiency in the education of a people which may be secured when the arrangements and regulations are made on a community-wide scale, and are embodied in the laws.

The necessity for the education of the people in self-governing communities has been admitted even by those who, it is to be suspected, on grounds of interest and inclination would refuse to make the admission, but for the fact that the soundness of the proposition is self-evident. Those individuals, or corporations, or classes, who enjoy special privileges, and who desire that these shall be continued, can have no sincere desire for the education of the people, or for the development of the power of original thought, or the exercise of independent judgment by the mass. The modern movement in the direction of public education under the supervision of the state, has been opposed and obstructed by various interests and for various ostensible reasons. But in all countries in which free state education has been introduced, the obstruction and resistance which have been found to be the most strenuous and most formidable, have emanated from, and been inspired by, the ecclesiastics of certain religious denominations, and of these the Church of Rome has been, beyond all comparison, the most important, whether considered from the point of view of the uncompromising attitude it assumes, or from the solid homogeneousness of the body of citizens whose action it directs and controls. It is unnecessary here to rehearse the reasons why in a self-governing community, composed of heterogeneous elements, no relationship is possible between the state and any particular religious denomination. These reasons will suggest themselves. For the same reasons which render it impossible for a democratic state to recognize any particular church or denomination, it is impossible to permit of the teaching of any of the distinctive denominational dogmas or doctrines in the state schools.

But the Roman Catholic church declares that any system of education, in which its distinctive dogmas are not taught, and in which its claims to recognition as the sole repository of revealed truth are not admitted, is an imperfect and a dangerous system. It will be seen later whether those contentions of the Church of Rome are sound, and whether they are supported by the facts of history or by current experience. At present we shall confine ourselves to a statement of the position of the church. It will be seen that, on account of its attitude on this question a really national or common system of schools is an impossibility in a community in which there are any Catholic citizens if their contentions are admitted. If Roman Catholics may claim exemption from the operation of any law of any state of which they are subjects or citizens, on the ground that conformity on their part to the law would be incompatible with certain conscientious convictions of theirs, why may not the Jew, the Quaker or the Mormon claim with equal right a like exemption? If the soundness of the claim of the Roman Catholics is admitted that of the others cannot be logically denied. But if the general principle is admitted, and all the sects should make the claim, it is clear that no general system could be instituted. It may be urged, as it has indeed already been urged by implication, on behalf of the Roman Catholics, that the other sects do not make any such claims, and that even if they did, their claims would be based on mere "isolated or eccentric opinion." The flimsiness of such an argument, however, is palpable, because if conscience is admitted to be a reasonable basis of claim to exemption, the number of the individuals who may entertain the conscientious objection to the law, obviously cannot be a factor in the case.

## NATIONAL SCHOOLS SPECIALLY REQUIRED IN MANITOBA.

We have endeavored to make it clear why in a community in which the people govern themselves, a system of state education is necessary. Great Britain is a constitutional monarchy in name but is in fact a democracy and in some respects is the most advanced democracy that has ever existed. The great autonomous colonies of Britain are also virtual democracies. In the mother land itself, where the population is mostly indigenous and homogeneous, state education has been found imperative and is making vast headway in face of the enormous aggressive power and the great vis inertia of vested interests and traditional custom.

If public eduation has been found necessary in a country like Britain,the necessity is greatly emphasized in a new community like Manitoba, with its heterogeneous and polyglot population, and the great diversity of intelligence and ideas which characterize its yet unassimilated elements. Many of the foreign immigrants,apart from their ignorance, have had so little opportunity in their previous experience of acquiring any concepceptions of the rights, the duties, or the responsibilities of the citizens of a free country, that their presence in large numbers would form a distinct menace and danger to the continued freedom and stability of the government, unless means were taken to ensure an education for their offspring.

Confronted with these conditions the legislature of Manitoba in 1890 enacted a law, or rather laws, which provided for the education of all the children of the province. The education provided for was to be entirely free from sectarian religious teaching. The curriculum in the schools is under the supervision of a department of education, which chooses the text books. The schools are placed for purposes of local administration under boards of trustees. It is optional with these trustees whether or not religious exercises shall be performed in the schools. When it is deemed advisable to introduce such exercises, their character is defined, and their scope clearly limited by the law.. No scholar is bound to participate in these exercises, nor is he even bound to make any declaration as to his reason for non-participation. The exercises occupy an almost infinitesimal portion of the entire working time, and are so arranged that the work,or the time of those not engaged in them, is not in any way encroached upon, nor interfered with. It is our view that even these exercises, short and neutral as they undoubtedly are, should, in the interest of absolute consistency, be eliminated. It is contended that they have a great ethical value, and that any doctrine involved is common to the religious creeds of the overwhelming majority. There is the soundest reason for doubting the ethical importance of the religious teaching given in the schools at present, or at any time, and, while it is true that no doctrine is taught nor involved, which is not assented to by all sects of orthodox Christians, yet there are still others who have rights in the use of the schools, who, while they may not have expressed any positive objections to the religious exercises as at present conducted, cannot certainly express any approval of them. If these latter, however, claimed the use of the schools for the instruction of their children in their own peculiar tenets, it would manifestly be very difficult to accommodate them, and perhaps even more difficult to furnish them with an adequate reason why they should thus be virtually discriminated against, on account of their religious views.

## ROMAN CATHOLIC CLAIMS THE OBSTACLE TO STATE EDUCATION.

As a practical fact, however, the only interest which has expressed positive dissatisfaction with, or objection to the present system, is the Catholic church. It does not object to to the teaching on the score of inefficiency in regard to secular training. As has already been stated, it takes the arbitrary ground that any system of education which is not under its control, in which its doctrines are not inculcated, and in which its various claims and pretensions are not unquestioningly received, is perilous to the eternal welibeing of the child.

Let us see what the attitude of the Church of Rome involves and on what it is founded. This church as we have already stated, contends that it is the sole authorised interpreter of revealed truth to mankind. All other forms of religious belief, it

asserts, are schisms or heresies, even those in which the essential spiritual doctrines are indentical with its own. These other Christian bodies are branded as sects and heresies, because they claim to have a knowledge of revealed truth obtained outside and independently of the Church of Rome. The Pope, the head of the Church of Rome, is asserted to be the Vicar of Christ and to hold his office as the spiritual successor of St. Peter, by the direct authority of the Most-High. He is ex cathedra an infallible arbiter in questions of faith and morals. He claims to be, as indeed he must claim, as a corollary of the infallibility doctrine, above all princes and states. Although in these later days the pretension to temporal supremacy has been only guardedly asserted, it has never been withdrawn, and indeed it could not be, with any consistency, so long as the doctrine of papal infallibility is held. In using the expression "temporal supremacy," we do not refer to the mere political and civil government of the portion of Italy known as the Papal States,but are using the expression in its very widest sense. In a comparatively recent encyclical the present Pope Leo XIII, declared that when the obedience of the Catholic to the state is in conflict with his obedience to the church, his first duty is to the church. How could it be otherwise? An infallible arbiter in faith and morals cannot restrict the application of his decisions or injunctions to mere abstract philosophical or theological problems. Faith and morals are interwoven with all the various practical transactions, political, commercial and personal, in which mankind are engaged. There is no different kind of morals for application in the realms of theology, from that which applies in the practical affairs of men's lives.

If, then, the Pope is an infallible arbiter in faith and morals he ought to wield a supreme authority in all human affairs. Free constitutional government is based on the theory that the state (that is the majority of the people) is the supreme authority within its own borders, and that the people composing that majority have sufficient intelligence to rule themselves. This theory of government, however, is in direct conflict with the pretensions and polity of the church of Rome, and is incompatible with the doctrine of papal infallibility. If the claims and doctrines of the Roman Catholic church are valid and sound, the principles of democratic government are unsound. A loyal citizen of a democratic state can acknowledge no other nor higher authority in civil or political affairs than that of the state. A Roman Catholic must admit the superior claims of the pope or the church. He cannot therefore be a loyal citizen of a democracy. This is the conclusion which is inevitable as the result of deductive reasoning from the premises.

## GENERAL DEDUCTIONS AS TO EFFECT OF CATHOLIC DOCTRINES, DEMONSTRATED BY HISTORY.

But we are not confined to abstract deduction. We can see in practical experience the results which would be indicated by the process of ratiocinative deduction, from the nature of the pretensions which the church of Rome asserts. History has shown that, in a state which contends for absolute freedom, the attitude and the policy of the Catholic church have always been a source of danger and apprehension. The history of England for several centuries shows this in almost every page. The policy of the church of Rome in England, as in every other European country, has been to throw its influence into the scale in behalf of despots, or would-be despots, in return for a promised acknowledgment of the church's pretensions on the part of the would-be despot. The interests of the masses have never been understood by, nor have they had any consideration at the hands of, the church of Rome. It is the traditional foe of democracy, of the enfranchisement of the masses, and of every movement calculated to improve the lot of the proletariat. It is true that, within very recent years, it has been the policy of the Pope and of some of the leaders of the hierarchy to make abstract and general protestations of sympathy with democracy, especially in the United States. But in view of the claims and doctrines of the church, such declarations may be accepted merely as an indication that the hierarchy appreciates the growing power and the coming dominancy of democracy. The idea of a Roman Catholic democracy is a paradoxical absurdity. In an autonomous republican community in which the large majority of the peo-

ple are Roman Catholics, the government is not a democracy. It is a theocracy—a government by the church, which is perhaps the most intolerable and rasping sort of tyranny now known. Stagnation and unprogressiveness, material and intellectual or turbulence and revolution, or all of them, are the distinctive characteristics of such communities. Quebec, and the South and Central American republics, may be cited as illustrations of the resuts of pseudo-democratic government with the church of Rome in actual control.

## THE CHURCH OF ROME AND TOLERANCE.

It may be said that all these considerations might have weight in other countries, and under different conditions, but that in this country public intelligence is so high, the non-Catholic majority so powerful, and democratic institutions so firmly grounded, that there is not the slightest danger of the Church of Rome ever attempting to give practical enforcement to the doctrines and pretensions alluded to. It may also be said that any apprehension on this score evinces the spirit of the "Orange bigot" or of the "zealot of the P. P. A." Just in this connection let it be borne in mind that, while the leading spirits of this church (which has ever had at the head of its administration men of great diplomatic capacity) see the necessity for toning down and keeping in the background, those arbitrary dogmas and claims which are antagonistic to the spirit of modern progress and popular government, not one of these claims has been renounced or receded from. On the other hand, we see an increasing and uncompromising warfare being carried on by the church in the midst of the most enlightened and freest communities of to-day, against the institution which is most essential to the safety and continuance of government of the people by themselves. We see also professing non-Catholics, under the plea of a fatuous "tolerance" and even in the name of "liberty," take up the advocacy and defense of the case of an organization whose doctrines and principles would render tolerance on its part an inconsistent farce, and whose claims at once fall to the ground if it can be shown that men have a natural right to liberty. We see expressions by the leading ecclesiastics of the Catholic church in the United States, which are couched in conciliatory language, and are calculated to produce the impression that these dignitaries are imbued with the spirit of tolerance. There is reason to fear, however, that these expressions are prompted more by the superior diplomatic acumen of the prelates, than by any intention on their part to abandon any of those pretensions, in the light of which, the genuineness of their tolerance is at least open to suspicion. The more unsophisticated members of the clergy, however, are not so diplomatic, but are more consistent. In an article in the Western Watchman, a Roman Catholic paper published in St. Louis, and edited by Father Phelan, the following passage appeared a few weeks ago:

"We would draw and quarter Protestantism; we would impale it and hang it up for crows' nests; we would tear it with pincers and bore it with hot irons; we would fill it with molten lead and sink it into hell-fire a hundred fathoms deep."

This chaste and beautiful passage is, as our readers may observe, redolent of tolerance and calculated to promote that sentiment of brotherly love which, we presume, it is one of Father Phelan's offices to inculcate. Another Catholic organ, the Boston Pilot, recently contained the following:

"No good government can exist without religion; and there can be no religion without an Inquisition, which is wisely designed for the promotion and protection of the true faith."

Now the reverend gentlemen who pen these morceaux, are doubtless quite sincere, and are much more consistent than their superiors, but their utterances could hardly be pronounced as being pregnant of "tolerance."

No discrimination of any sort is attempted to be made against Catholics in Manitoba by the legislation of 1890, but if such discrimination had been attempted the province might have been able to give some color of authority and sanction for the attempt. By the constitution of Great Britain a Roman Catholic cannot occupy the throne. Why this significant discrimination? History will show. The monarch of England must be a Protestant, because he is the constitutional head of a state which asserts its absolute supremacy in the control of its affairs. In view of the nature of the pretensions of the Church of Rome, it is recognised that no individual who

admits these pretensions, is fitted to loyally discharge the duties of sovereign of such an empire as that of Great Britain. The history of the Stuart dynasty in Scotland and England demonstrates the necessity for such a provision in the British constitution.

## CONSCIENCE NOT A VALID PLEA FOR EXEMPTION FROM TAXATION.

It may be asked what bearing has all this on the Manitoba school question. It has the most cogent bearing. For it is on the assumption of the soundness of these pretensions that the hostility to the Manitoba school legislation is attempted to be or can be justified.It is not contended by its opponents that the system now in operation is inefficient,nor that it does not compare favorably in results with that which it superseded. It is admitted to be admirably adapted, in a social and economic sense, to the conditions existing in the province. But considerations of economy or of national progress or unity, count for nothing when the interests of the Church are involved. In effect the Church simply says: "Neither our authority nor our claims are recognised in this system of education; therefore we oppose it. We enjoin our communicants against countenancing it, and as the church is the rule of conscience for Catholics their objection is therefore a conscientious one. It is true that if you admit the principle that the plea of conscience is a valid one, in support of a claim for special privileges or exemptions, your system will become impracticable. But that is no concern of ours. The dictum of the church is the law of conscience for Roman Catholics and that is all there is about it." Now let us carefully avoid being misled by the specious argument of conscience. The mere fact that a man has a conscientious objection to any law which the people may deem advisable to enact in the common interest, cannot, manifestly, be accepted as a valid reason for his exemption from the operation of that law. What is the authority which is to determine when a conscientious scruple becomes a mere fad or whim?

We are informed, on credible authority, that the Plymouth Brethren, a religious sect who hold most of the essential tenets common to all Christian denominations, do not believe in the payment of taxes at all, and pay only because they must. These people, it is alleged, believe that the total abolition of government would hasten the advent of the millenium. They reason, we presume, that as it is very wrong to do anything which will tend to postpone the millenium, the payment of taxes by which governments are sustained, is a very pernicious practice. The Plymouth Brethren are, in their personal lives and conduct, a very moral and right-living people. Their views on the question of taxation are, presumably, entirely conscientious. But so long as the majority still cling to mundane notions as to the necessity for some sort of order, pending the arrival of the millenium, it is probable that the Brethren will continue to pay taxes.

With special reference to the case of education in Manitoba, it may be said, in short, that if conscience be admitted as constituting a full and satisfactory ground for exemption from taxation for the support of the schools, a provincial system of education would be an impossibility. The necessary theory of monarchical government is that "the king can do no wrong." For the purposes of a democratic state, that might be translated "the will of the majority is always right." In the latter case the theory is much more in accord with the practical results than in the former.

## THE POLITICAL POLICY OF THE CHURCH COSTLY TO THE PEOPLE.

The enormous cost to the toiling masses, of the civil policy of the church of Rome is only faintly realized. In Quebec we observe enormous loss to the people through corrupt and incapable government, which, there is too much reason to believe, is the indirect outcome of the church's influence and policy. The landscape in that province is characterized by the contrast of the frequent and stately ecclesiastical edifices, with the mean and humble cot of the simple habitans, out of whose toil and sweat the grand and costly piles have been reared. Lavaleye, the celebrated Belgian economist, is quoted in a pamphlet recently published by Mr. Dalton McCarthy, as follows: "Steady progress is very difficult in Catholic countries, because the church

aims at establishing her dominion throughout, and the living energies of the nation are almost exclusively employed in repelling the pretensions of the clergy." While Lavaleye's remarks had more especial application to France and Belgium, it must strike the reader with what aptness they fit the case of Canada.. A synopsis of the political disputes and troubles directly due to the aggressive political action of the Catholic church in Canada would fill a newspaper column. Indirectly, the policy of the church affects all Canadian legislation. Nothing can be done if Rome obstructs. And she obstructs often and effectively. What are the so-called "politics" of Quebec? A rather unsavory mess of intrigue, corruption and extravagance. What is the result of this nauseating network of intrigue and corruption? The inevitable one. Whilst the average condition of the patient, frugal, and industrious peasantry of Quebec is one not much removed from penury, the public treasury is in a condition of almost chronic bankruptcy, due to the almost incredible carnival of corruption and wastefulness in which the devout political proteges of the church have revelled, and of which extravagance the church, in at least one instance, was a large beneficiary. But it is a notorious fact that, whilst the province and citizens of Quebec are in a condition of chronic poverty, the Roman Catholic church in that province is, so to speak, rolling in wealth. What renders this state of matters possible? Simply a low degree of average intelligence on the part of the masses, whose toil must always and unfailingly pay for these extravagances, robberies and accumulations.

## ARE THE CHURCH'S CLAIMS JUSTIFIED BY ITS WORKS?

It would be expected that a corporation which professes to be the only authorized medium for the transmission of the truth of revelation to mankind, would show an excellence in the result of its work which would render comparison with that of unauthorized bodies ludicrous. What is the function of a church? Is the church an end in itself, or is it properly only the means to an end? If the latter, what is the end or object which churches exist to attain? Is it the inculcation of creed or dogma? Manifestly not. Creeds and dogmas are themselves only tools for the attainment of the desired end, and are often so clumsy and faulty in conception and construction, that they hinder more than they help, distract more than they guide. What then is the end? All religions, at least all Christian religions, agree that the highest attribute of God, is the perfection of his moral being. The chief aim of the churches, then, is, or ought to be, the training and direction of the moral nature of man, and the development of those powers of reason and intelligence of which he alone, amongst all created terrestrial beings, is the possessor, and without which no conception of morality is possible.

Now, a church which is assisted in the attainment of these ends by the direct and exclusive authority of the ruler of the universe, whose earthly head is endowed with the attributes of divinity, to the extent of being infallible on questions of faith and morals, would naturally be expected to show results in its efforts for the moral and spiritual regeneration of mankind, which would prove the fallacy and imposture of those heretical faiths, by comparison with the results achieved by the heretics. But what is the fact? In every civilized country in which the communicants of the Church of Rome form the mass of the people, morals, material prosperity and intelligence are comparatively low. In these countries the church has, or has had till within recent years, practically absolute control of education. What is the result? That the percentage of illiteracy is very high, and (mark it well) the criminal statistics of these countries show that crime and illiteracy are almost invariably in an exact ratio.

## SOME INSTRUCTIVE FACTS AND FIGURES.

A very active advocate of the separate school system in Manitoba, Mr. Ewart, in an endeavor to show that the Catholic church is in no way opposed to education, quotes the following figures from the Encyclopaedia Britannica, with a somewhat sardonic remark to the effect that statistics are proverbially misleading:

| Country. | Catholics. | Protestants. | Schools to every 1,000 inhabitants. |
|---|---|---|---|
| Switzerland | 1,084,400 | 1.577,700 | 155 |
| German Empire | 14,867 500 | 25,600,700 | 152 |
| Luxembourg | 197,000 | 400 | 142 |
| Norway | 350 | 1,704.800 | 138 |
| Sweden | 600 | 4,203,800 | 138 |
| Netherlands | 1,313,000 | 2,198,000 | 136 |
| Denmark | 1,900 | 1,865,000 | 135 |
| France | 35,388,000 | 610,800 | 131 |
| Belgium | 4,980,000 | 15,000 | 123 |
| Austria | 27,904,300 | 3,571,000 | 100 |
| Great Britain | 5,800,000 | 25,900,000 | 83 |
| Spain | 16,500,000 | | 82 |
| Italy | 26,750,000 | 35,000 | 70 |

This table shows a good average of school attendance in such Catholic countries as Spain and Italy, when compared with Great Britain. But the figures, which would have been more to the point, are those showing the relative efficiency and illiteracy in these countries. Here are some figures, bearing on this point, taken from the same authority as Mr. Ewart's statistics, and which, we think, are a little more relevant to the subject. Spain is a country in which the population is practically entirely Catholic. Out of a total population of 16,000,000 there are only about 60,000 Protestants. It will be seen from the table quoted above that the school attendance in Spain per 1,000 persons is about the same as that of Great Britain. What is the result? In the same article from which Mr. Ewart's statistics are taken it is stated that in Spain 72 per cent could neither read nor write, and in another portion of the same authority it is stated that, in 1877, 75.52 per cent of the population could neither read nor write.

In the article from which Mr. Ewart obtained his statistics, the following passage occurs: "That the clergy do not readily acquiesce in the changes that diminish their influence is excusable, but at the same time their demands have occasioned the most lamentable obstruction to education." The reason why the writer in question did not quote this sentence may be readily inferred, and it may throw some light on his conclusion that statistics are unreliable. He seems to have introduced the above table, not because it has any bearing on the question under discussion, but simply with a desire, perhaps not unnatural, to distract attention from the very suggestive fact that the separate school advocates have not a vestige of historical or statistical fact to justify their contentions.

The same advocate, who is a professed Protestant, calls for the admission of the Catholic claims for special privileges, in the name of tolerance and liberty. Now, we have endeavored to show that the friend of tolerance and liberty must, if he fully understands the basis of the Catholic claims, oppose them, because they are founded on doctrines which recognize neither tolerance nor liberty. It may be objected that this is a mere philosophic argument, dependent entirely on theory or abstract deduction. Let us see whether practical experience justifies the deductions. Again, referring to the same authority, the Encyclopaedia Britannica, and still on the subject of education and religion in Spain, we find the following: "By the constitution of 1876 non-Catholics are permitted to exercise their own forms of worship, but they must do so in private, and without making any public announcement of their services." This is a specimen of the tolerance and consideration which is extended to "conscience" in the countries in which the Church of Rome is in power! It may be added that before 1876, even the private exercise of any religious worship other than that of the Church of Rome, was prohibited by law, was vigilantly ferreted out, and severely punished, at the instance of the clergy. It was only in the face of strenuous opposition on the part of the clergy that even the above measure of "liberty" was attained. Spain was the theatre for the display of the operations of the Inquisition, that admirable device for the propagation of liberty and tolerance, which the reverend editor of the Catholic "Boston Pilot" would like to see established in America at the present time.

Let us now turn briefly to Italy, that land of ancient splendors, the very footstool of the church, and possessing the most homogeneous Catholic population of any state in the world. Mr. Ewart's authority, regarding the state of education in Italy, says: "As late as the census of 1861 it was found that in a population of 21,777,331 there were no less than 16,999.701 (nearly 80 per cent) 'analphabetes' or persons absolutely destitute of instruction, absolutely unable to read. * * * * While 59 per cent of the men married in 1866 were obliged to make their mark, 78 per cent of the women were in the same case. In the Basilicata (an Italian province with a population of over half a million) the illiterate class comprised 912 out of every 1,000 inhabitants." It is true that

since the consolidation of the Italian states, matters educational have improved greatly in Italy, although the educational condition of the people is still deplorably backward. Mr. Ewart refers to this improvement as an evidence of the friendliness and eagerness of the Catholic church for the intellectual improvement of the people. But, unhappily for the force of Mr. Ewart's argument, he evidently does not know (otherwise he would presumably have mentioned the fact) that the great movement for popular education was begun and carried on in the teeth of the most bitter and uncompromising hostility of the church, by the anti-Clerical and United Italy party. A recent article by Monsignor Satolli, the representative of the Pope in America, in the North American Review, shows that while the church in Italy has been whipped into competitive effort by the energetic action of the civil power, it still regards the state education with an undisguised repulsion, which, in view of the results of its own centuries of fruitless control, seems positively fatuous.

Whilst we see the unsatisfactory educational or intellectual condition of the masses in these countries whose interests in that regard have been almost wholly under the control, or at the merey of the Church of Rome, what do we find when we look into the ethical results of its supremaey? In Spain and Italy, crime is prevalent, particularly crimes of violence. According to a recent writer on this subject, there are, for every murder committed in England, forty in Spain, and two hundred in Italy. The habits of the lower orders are semi-barbarous. The bull fight and the vendetta are national institutions, and in Italy, up till the most recent years, the profession of brigand had attained a respectability which drew to its ranks not a few of the old nobility, who did honor to their ancient lineage alike by the daring and thorough going character of their rascality, and by their devout attention to their religious observances between atrocities. The material condition of these nations corresponds with their educational and moral condition. Each of these nations has been, in turn, the most opulent and formidable power of the earth. Today, Spain has gone hopelessly to the rear, and Italy owes its recent partial recovery of political status to the fact that it has thrown off both the civil and intellectual domination of the Church of Rome. Favored by nature with rich soils and good climates, the peasantry and the proletariat of these countries live in a condition of extreme, and, in some cases and localities, incredible poverty; their taxation is grindingly onerous, while their national revenues are strained by the burden of heavy debts.

Thus we see three classes of phenomena which are, as a rule, found in combination. Where we have a low average standard of education and intelligence, we find a low degree of morality, and a low material condition. The simultaneous existence of these three conditions is not mere coincidenee. The two last are the corollary and result of the first.

Now, we have seen from the statistics that in these Catholic countries, the average of school attendance has been fairly high. The very high illiteracy cannot be due to want of opportunity for instruction. The reasonable inference, then, is that it is the kind of instruction which is at fault. Possibly, it might be said, so much effort is directed to moral development, that the intellectual is neglected. This, however, is not a feasible explanation, because the moral nature can only be developed through, and co-ordinately with, the intellectual faculties. But again, we do not need to rely on a merely philosophical explanation. We have concrete facts. We know that the morality in these countries is low. If,then, the school attendance has been good, whilst the intelligence and the moral status of the people are extremely low, we must conclude that the instruction is neither calculated to improve the mind nor the moral nature. The teaching imparted, it is to be inferred, is principally of that kind which is called, or rather miscalled, "religious." It is composed largely of dogmas and formulas and injunctions, calculated to imbue the learner with the importance of the church, as an entity apart from all other considerations or ends. The ethical objects, for which solely the church exists, or ought to exist, are lost sight of. Mundane and political considerations obscure the true object. The interest of the church, as a wealthy and powerful corporation, becomes of more importance than the object for which it was originally organized. The means become the end. Religion, under such instruction, becomes an idolatry. It becomes a worship of the church, instead of the worship of God.

In those European and American countries where the majority of the

population is largely non-Catholic the education of the Catholic portion, while always inferior to the Protestant, is still incomparably higher than is the education in those countries where the population is almost exclusively Catholic. The proximity and the example of Protestant vigor, and intelligence, and independence, seems, by its contagion, to stimulate the Catholic citizens and the clergy. But in all countries where there is a Catholic and a Protestant population, it will be found that the former is on the average much inferior to the latter, both intellectually and morally. Take the case of Canada.The writer has not been able to learn of the existence of any statistics showing the proportion of illiteracy, to religious beliefs. But a reference to the official criminal statistics of the Dominion for 1892 shows that all the principal religious denominations are represented amongst the criminals as follows: (The figures in regard to population were obtained from the Dominion census reports of 1891.)

| | Population 1891 | Per-centage of criminals 1892. |
|---|---|---|
| Roman Catholics - - | 1,992,017 | 48.8 |
| Methodists - - - | 847,765 | 9.8 |
| Presbyterians - - - | 755,326 | 7.1 |
| Church of England - | 646,059 | 18.3 |
| Baptist - - - - | 303,839 | 2.6 |

An analysis of the figures in this table shows that the Roman Catholic population of the Dominion furnishes 70 per cent more criminals than an equal number of all the Protestant population. But analysis will also show the striking fact, that the proportion of criminals acknowleding allegiance to the church of England, is even greater than that of the Roman Catholic church. Several reasons might be given in explanation of this remarkable fact. In the first place there is a very large immigration from England, of a very poor class, who are under special temptations to crime in a new country, and most of whom claim the church of England as their church. Again, many of these immigrants belong to various sections of the "submerged tenth" of England, and are sent out to Canada by philanthropic agencies with a view to reformation or reclamation, which desirable ends, it is to be feared, in many cases are not achieved. But as we are citing the statistics we must abide by their showing, regardless of how it may affect our line of argument. It will be seen that the percentage of Roman Catholic criminals is more than twice as great as that of those of the next most numerous religious denomination in Canada (the Methodists). It is fully two and one-half times as great as the Presbyterian, and nearly three times as large as the Baptist percentage. The only admissable reason for the existence of a church is that it teaches men to live aright. Here we have a church which lays claim to the most exclusive monopoly of the authority to convey the will of God to man. It also contends that its relationship with the Deity is so intimate that its visible head is actually endowed with one of the most essential attributes of divinity. How incompatible are these pretensions with the results achieved by the supervision of the church over the moral and educational welfare of its proteges! Judgment by results is the only sure test. "By their fruits ye shall know them," is the dictum of an authority which even the church will not refuse to recognize.

Much statistical matter has been adduced, and much more might still be furnished, to show that the Roman Catholic church has utterly failed to justify its pretensions by its performances. The position of this church has been especially dealt with not because of the existence of animus towards it as an exponent of revealed or speculative spiritual doctrines, but because its polity, which impels it to constantly interject itself as a factor in civil politics, and renders it a standing menace to the continuance of free institutions, is really the root of this "school question."

## EDUCATION IN SECULAR SUBJECTS A MORAL AGENT.

It will have been observed, that in Canada, the official records show that the Baptists, Presbyterians and Methodists, contribute the least share of the criminal population, while the Catholics and Anglicans contribute the largest. Now it is a remarkable fact that the clergy of both of the latter denominations are very emphatic in regard to the necessity for the teaching of their denominational doctrines in the schools. We say denominational doctrines, as distinguished from general ethical truths. In Italy and Spain, instruction

is, or was until recently, mainly devoted to Catholic formula and dogma. In England, in the parochial schools, great stress is laid on the formulas of the church and its overshadowing importance, as a factor in the well-being of the nation, and of the individual. In the former countries the results of the almost exclusive attention to the inculcation of theological dogma, are shown in the illiteracy, immorality, and material poverty of the masses of the people. The effect of the Anglican system, if the showing of the criminal statistics of Canada may be considered a fair test, would go to confirm the conclusion that the "sanctions" supplied by theological dogma, are not the God-given power which is to save the nations from anarchy and destruction.

The denominations whose members and adherents behave themselves best, are those which place little or no stress on the necessity of the teaching of religion in the schools. It is true that considerable sections of the clergy in the Methodist and Presbyterian bodies, believe in the necessity of religious sanctions along with secular teaching for the development of moral growth. But the difference between their position and that of the ecclesiastics of the churches claiming exclusive "authority" is a great and essential one. The former contend that common Christian truth should be taught, the latter that their distinctive doctrines are necessary. In Scotland and Protestant Canada the illiteracy is comparatively small; so is the percentage of crime; so is the proportion of religious teaching to secular. In Italy and Spain and Mexico illiteracy is deplorably prevalent; the percentage of crime is large, and dogma and formula have been taught in the clerical schools to the almost entire exclusion of instruction which would inform the mind and develop the judgment. What is the inevitable conclusion from these facts? Simply that the acquisition of knowledge and the development of the intellectual faculties,tend of themselves to awaken and develop the moral nature. As a matter of fact, true or high morality cannot co-exist with low intelligence.

In the Canadian parliamentary records of the statistics of crime for 1892, to which reference has already been made, the following table appears:

| | Percentage of Criminals. |
|---|---|
| Unable to read and write | 20.3 |
| Elementary . . . . . | 74.3 |
| Superior . . . . . | 2.2 |
| Not given . . . . . | 3.2 |

Now this table clearly shows that crime is largely the product of ignorance. Persons unable to read and write, form 20 per cent of the criminal class, whereas all the persons unable to read and write, who are of an age to be convicted of crime, form a very small proportion of the entire population. Practically all the balance of the criminal class is drawn from the class of persons who have an "elementary" education. A person possesses in law an "elementary" education, if he can read and write. It is to be inferred, from the nature of the other figures in the table, that the great bulk of the 74 per cent of persons having an elementary eduation, were able to read and write, and beyond that were practically uninstructed. It is true that many wise and moderately minded men, who are favorable to a common school system, believe that moral teaching cannot be inculcated without religious sanctions. But what are "religious sanctions?" It is to be feared that, in the minds of many very good men, they are synonymous with doctrines and dogmas, and especially those peculiar to their own denominations. To say that a moral sentiment or principle, cannot be instilled without reference to some doctrinal tenet, is to take a position the soundness of which has not yet been demonstrated.

This is not said with any idea of detracting from the value of doctrines which enforce sound moral precepts, but in order to suggest that a system of education, in which neither doctrines nor creeds are taught is not necessarily immoral and "godless." The most moral elements of the people of Canada are the most intelligent, and they have been trained in secular knowledge. In schools in which the "religious instruction" has been almost infinitesimal in quantity, and has been confined to those general subjects calculated to directly inculcate moral principles, rather than to instil an appreciation of distinctiveness of creed. Is it straining the credulity to ask one to believe that if these infinitesimal and perfunctory exercises were entirely omitted, the present generation of scholars would not in their time be at least as moral as the present geenration of adults?

France and the Australasian colony of Victoria are cited as "frightful examples" of the result of "godless" education. But, with all due respect to the sincerity of the worthy men who think they see their conclusions justified by the conditions in these communities, it has to be stated that absolutely no evidence has yet been furnished which could be accepted as showing any evil results which are clearly and solely traceable to secular education in these countries. The most clamorous objectors to secular education are the clergy of certain denominations, and in this connection it is to be remembered that there is a strong and apparently ineradicable tendency in the ecclesiastical mind, to jump to the conclusion that what is new is of a necessity wrong. This is especially the case if the innovation is thought to have the tendency to in any way lead to a diminution of the ecclesiastical influence.

Enough has probably been said, to make a reasonably good case for the contention that schools in which articles of denominational creed are omitted, are not "godless schools," and that, conversely, there is no especially "godly" or desirable result to be attained by such instruction in the schools.

In the face of the comparative results of so called "religious instruction" and of education which is practically secular, it seems almost incredible that honest and intelligent men who are satisfied with the present system, can hold up their hands in horror when they contemplate the dire results which they picture in their minds, would ensue from the abolition of the present meagre and perfunctory religious exercises.

## NO ARGUMENT FOR SEPARATE SCHOOLS ON THE MERITS.

It has not been our lot to encounter any sustained and completed argument for the contentions of the Roman Catholic Church in this matter, strictly on the ethical questions and principles involved. In most of the deliverances,technical points of law and questions of abstract justice, have been jumbled and confused in the most bewildering manner. When the ethical facts and circumstances, stop short of justifying an argument to the extent necessary to make it effective, an ex-parte statement of the legal rights of the separate school claimants is introduced to fill up the gap.

In arguing for the moral impregnability of the Catholic claims from a purely ethical standpoint, much virtuous indignation and pathos is employed, and not a little gratuitous sneering at the intolerance of the brute majority, is indulged in. The indignation and the sneers are evoked by the spectacle of the brute majority wrenching away the rights of the weaker section.

Now, it is to be remembered, that the Separate school advocates believe in the necessity of state superintended education. They know that no efficient system of state education can be instituted or operated, if all, or even any considerable number, of denominational groups, asked for Separate schools. They know that in the schools of the present system the most absolute equality,social and religious, is combined with a creditable educational efficiency. Yet they claim immunity from the taxation necessary to support the system. Because they are discriminated against? No. But because, they say, they are entitled to treatment which would practically operate as a discrimination in their favor. They cannot, of course, argue that they can claim such "rights and privileges" on purely ethical grounds. They revert, then, to their alleged "constitutional rights." But let us recollect that the indignation and contumely, have been based altogether on an assumed moral injustice, which was being inflicted by the majority on the minority. The legal is thus deftly welded on at the point at which the ethical falls short, and the combination is presented as an argument purely on the moral merits.

It is possible that many just-minded persons, who may not be over-acute in their examination of the arguments, may be misled by this confused, incoherent and disingenuous method of argument. It is not intended at present to deal with the legal aspect of the question. That will be done later. We are now simply examining the moral basis of the Roman Catholic claims.

Now if, for instance, the legislature of 1890 had enacted that the creed of the Church of England should be taught in the public schools and if it had made it compulsory that the Roman Catholics, or members of any of the other bodies which dissent from the Anglican views,

should attend the public schools, and receive instruction in that creed; if these people had been prevented from erecting schools and providing an education for themselves—if any of these things had been done, then would the cry of "persecution" and "intolerance" have been justified. But none of them have even been thought of.

## HISTORY OF ORIGIN OF SEPARATE SCHOOLS.

The results produced by the separate schools in Manitoba, prior to the act of 1890, were simply deplorable. It is true that at a recent lecture on this question in Winnipeg, the legal counsel of the Catholics produced a number of specimens of work now being done in the separate schools, which were doubtless quite creditable to the individuals who produced them, but this is obviously a most inefficacious test of the general efficiency of the work of the separate schools, and it is to be recollected that the work placed on exhibition by Mr. Ewart, is being done now, when the separate schools are being put on their mettle, not only by the emulation which the contemplation and proximity of heretical vigor and intelligence always seems to produce, but by the necessity of preventing the charge that their own utter inefficiency would be a strong, though not the vital argument for their abolition.

When we consider that the adult native Roman Catholic population of this province to-day is in a condition of pitiable and almost primeval ignorance, when we are shown that the examination papers for a person attempting to obtain a first class teacher's certificate in the Roman Catholic schools, are largely composed of questions calculated to elicit his knowledge of the peculiar dogmas of the Church, and his impressions as to its overshadowing importance, and of questions on trivial points of deportment in addressing the clergy; when we find grown men who are so innocent of the necessary facts of civilised life, that they are ignorant of the very names of the calendar months, and measure time by the fete days of the saints (this is no hypothetical illustration); when we find such results of the prevalence of separate schools, controlled by the Roman Catholic clergy, and when we find these results correspond exactly with the experience in all other countries in which education is in the same hands, who will say that the Manitoba legislature was not amply justified, if on no other ground than that of consideration for the Roman Catholic children themselves, in ending this futile and pernicious system?

In the preceding pages we have dealt with the general ethical and political questions involved in, and suggested by, the position of the Roman Catholic church in this controversy. Trusting that we have succeeded in furnishing the reader with a standpoint from which he will be able to take a broad and comprehensive view of the case, and of the issues involved, we shall now proceed to deal with the historical facts, and the special legal and political aspects of the question.

In 1867 the Dominion of Canada was created by the federal union of the provinces, or colonies, of Nova Scotia, New Brunswick, and the then province of Canada. The Imperial sanction of Confederation, and the recognition of the Dominion as a political entity, are embodied in the British North America Act, an enactment of the British parliament. This act, which is the Canadian constitution, is an epitome of the results of the negotiations carried on, of the arrangements and agreements arrived at by the representatives, of the interested colonies, and of the Imperial government. It defines the relative status and powers of the federal and provincial legislatures. Certain subjects of legislation are specifically named as being within the exclusive power of the federal parliament, and certain others (of entirely provincial concern, of course,) as belonging exclusively to the provincial legislatures. But all legislative power, not specifically conferred upon local legislatures, is reserved to the Dominion. In this important respect the constitution of Canada differs from that of the United States, which reserves to the states all legislative power not expressly conferred on the federal authority. It is, to some extent, because of the limitation of the local authority in the Canadian constitution, that the Manitoba legislation of 1890 has become a "question."

One of the subjects, declared by the British North America Act to be exclusively within the power of the provincial authorities, is that of education. This power is, however, given subject to restrictions. The author-

ity and its limitations are defined in section 93 of the British North America Act. As this section, and its sub-sections, are the only portions of that act having any immediate bearing on our subject, it will be quoted verbatim further on in this paper.

## RED RIVER JUST BEFORE THE UNION.

When the federation of those older provinces was consummated, the vast territory, of which what is now the province of Manitoba formed a portion, was for the most part practically a terra incognita—a "great lone land." A large proportion of its sparse population were more or less nomadic in their habits.. There were hunters, trappers and traders, and a few adventurers of various nationalities. These, with the Indian tribes, practically composed the population. Civilization was represented by the Hudson Bay company's officers, a few earnest and devoted clergymen of the Roman Catholic, Presbyterian and Anglican denominations, and a handful of merchants and agricultural settlers.

The territory was, of course, under the sovereignty of Great Britain, but the only government which the country knew or needed (under the then circumstances) was administered by the Hudson's Bay company's authorities, with the sanction, of course, and at the instance of, the Imperial government.

The great potential agricultural wealth of the territory had been understood in Canada, and because of the existence of this wealth, and for other reasons of a political nature, it was deemed desirable to embrace the great region in the Canadian confederation. An arrangement had been made by the Canadian government, with the Hudson's Bay company, by which the former was to pay the latter £300,000 as compensation for the surrender of part of its lands and its jurisdiction.

## THE SETTLERS HAD REAL GRIEVANCES.

It would seem that the Canadian government, having thus arranged with the Hudson's Bay company had considered that the work of annexing the territory had been virtually completed. It had forgotten about the inhabitants of the country and their rights; or it had calculated that, these inhabitants being so few in number, and of such primitive habits and understanding, they probably did not themselves realize that they had any rights, and that, if the matter required any consideration at all, it could be postponed to a more convenient season. The government had forgotten that the actual inhabitants—the resident population of a country—have rights which are paramount to all other claims.

The population in the settled portion of the territory consisted about the end of 1869, of 12,000 souls. Of these 5,000 were French half-breeds, 5,000 English half-breeds, the remaining 2,000 being white persons. Many of the latter were Canadians, and appear to have been markedly characterized by the speculative, adventurous, fortune-hunting spirit which is usually the distinctive trait of the individuals comprising the advance guard of civilization in a new country. He who has dwelt in a frontier land, in the early phases of its development, knows that the pioneer speculator is not a person whose personal progress or prosperity is likely to be retarded to any appreciable degree, by his fastidious sense of honor, or by the searching scrutiny to which he submits his own commercial acts. He is generally admitted, indeed, to acknowledge very little restraint in transactions involving considerations of meum and tuum. His ideal may be summed up in the vulgar expression of "get there;" and if in "getting there," it should incidentally happen that some other person had to be over-reached, the enterprise would probably be all the more attractive, and success all the more enjoyed on that account.

It would appear that, in the case of this new territory, even the officials of the Canadian government, had conducted themselves in such a manner as to inspire the simple-minded natives with a feeling of anything but confidence and security. The land-grabbing spirit was rampant. And it is to be feared, that not a few native owners were induced to part with their holdings for little or no consideration, by means which it would be far from exaggeration to term unscrupulous. Not only this, but a certain highhandedness on the part of the officials, their undisguisedly contemptuous treatment of the natives, and their apparent inability to comprehend the possibility of these

inhabitants having any rights which they were bound to respect, filled the minds of the natives with resentment and apprehension.

The 10,000 half-breeds who constituted five-sixths of the entire population were, as we have seen, about equally divided as to nationality. Of the French half-breed, Mr. Begg, the historian of Manitoba and the Northwest, says: "The French half-breed, called also Metis, and formerly Bois Brule, is an athletic, rather good-looking, lively, excitable, easy-going being. Fond of a fast pony, fond of merry-making, free hearted, open-handed, yet indolent and improvident, he is a marked feature of border life." It is this wild and intractable, but still attractive, child of the plains who, we are asked to believe, was so calculatingly solicitous to secure the permanency of Roman Catholic separate schools. "As different as is the patient roadster from the wild mustang, is the English-speaking half-breed from the Metis." This is a description of the other half of the native population by the same authority.

The Canadian government, before it had acquired any territorial rights or jurisdiction, sent a party of surveyors into the country, with instructions to survey and subdivide the very lands which these natives owned by the right of occupation, and of squatter sovereignty, if by no other. These simple and inoffensive people saw the lands which they had been always accustomed to regard as their property, on which most of them were born, and on which stood their homes (such as they were), dealt with by the strangers, as if their rights in them were so flimsy that the strangers need take no account of them. As the work of surveying went on, these natives saw the speculative adventurers, to whom allusion has already been made, acquire possession of the most desirable lands by the following simple process: "When a lot was chosen by an individual he proceeded to cut a furrow round it with a plough, and then drive stakes with his name marked upon them into the ground here and there. This was considered sufficient to give the claimant a right to the land, and in this way hundreds of acres were taken possession of for the purpose of speculation. It seemed, as soon as there appeared a certainty that Hon. Wm. McDougall was to be governor, that the men who professed to be his friends in Red River, made it a point to secure as much of the country to themselves as possible. It is notorious that the principal one in this movement, the leader of the so called Canadian party, staked off sufficient land (had he gained possession of it) to make him one of the largest landed proprietors in the Dominion. Can it be wondered at, if the people looked with dismay at this wholesale usurpation of the soil? Is it surprising if they foresaw the predictions of the very men who acted as usurpers, as likely to come true, namely, that the natives were to be swamped by the incoming strangers?"

The above extract from Mr. Begg's valuable and interesting work "The creation of Manitoba" throws a powerful light on the sinister methods and transactions, which have characterised all dealings with lands in the new territories, by Canadian governments. The distribution of the nation's natural resources amongst speculators and partisan heelers, has been the cause of incalculable cost to the people of Canada. It led to the armed resistance to their encroachments by the poor Metis in 1870, and it was the main cause of the later uprising on the Saskatchewan in 1885.

## THE BEGINNING OF THE TROUBLES.

The chief of the surveying party, Colonel Dennis, communicated to the government at Ottawa, the probable results of perseverance in the survey without an arrangement with the natives; but to no purpose. The surveys were continued till the resistance of the Metis rendered the work unsafe, and indeed impossible.

Who shall say that the action or the attitude of the Metis, in resisting the usurpation of authority over them, and the confiscation of their properties, by a government which had no rights of either treaty or conquest, was not justified? When they found that the government was being transferred from the Hudson's Bay company to the Dominion of Canada, without any consultation with them; when they saw the emissaries of the Canadian government, even before this transfer had been consummated, parcelling out their lands and disdainfully ignoring their existence, is it wonderful that, as Lord Wolseley (then Col. Wolseley) points out, the impression should have obtained amongst these people, that they "were being bought and sold like so many cattle." Lord Wolseley adds: "With such a text the most common place

of democrats (he probably meant demagogues) could preach for hours; and poor indeed must have been their clap-trap eloquence, if an ignorant and impressionable people such as those at Red River had not been aroused by it."

They were aroused. They organized themselves for resistance to the assumption of authority by the Canadian government, till proper terms had been made with them. The French element, organized under Louis Riel, elected twelve delegates, and invited the English natives to elect other twelve. The invitation was responded to. The twenty-four delegates met on Nov. 16, 1869, and adjourned because of their inability to agree as to the proposal to constitute a provisional government. On December 1 they re-assembled, and formulated the first Bill of Rights, which is as follows:

## LIST OF RIGHTS.

1. That the people have the right to elect their own legislature.
2. That the legislature have power to pass all laws local to the territory over the veto of the executive by a two-thirds vote.
3. That no act of the Dominion parliament (local to the territory) be binding on the people until sanctioned by the legislature of the territory.
4. That all sheriffs, magistrates, constables, school commissioners, etc., etc., be elected by the people.
5. A free homestead and pre-emption land law.
6. That a portion of the public lands be appropriated to the benefit of schools, the building of bridges, roads and public buildings.
7. That it be guaranteed to connect Winnipeg by rail with the nearest line of railroad within a term of five years; the land grant to be subject to the local legislature.
8. That for a term of four years, all military, civil, and municipal expenses be paid out of the Dominion funds.
9. That the military be composed of the inhabitants now existing in the territory.
10. That the English and French languages be common in the legislature and courts; and all public documents and acts of legislature be published in both languages.
11. That the judge of the Supreme court speak the English and French languages.
12. That the treaties be concluded and ratified between the Dominion government and the several tribes of Indians in the territory, to ensure peace on the frontier.
13. That we have a fair and full representation in the Canadian parliament.
14. That all privileges, customs and usages existing at the time of transfer be respected.

This is the first of the three Bills or Lists of Rights which were admittedly adopted by the legislative or executive representatives of the inhabitants. It will be seen that there is no reference in the above list to education or schools. A fourth bill, of somewhat mysterious origin, and of hazy identity, plays a most important part in this question, and it would be desirable that the reader, in order to obtain a clear understanding of the historico-legal phase of this dispute, should closely follow the facts relating to these Bills of Rights. The Bill of Rights quoted above was adopted by the council "without a dissenting voice."

Meanwhile the Hon. Wm. McDougall, who had been appointed Lieutenant-Governor of the Territory, had been at Pembina on the boundary since October 30, preparing to make his formal entry as soon as the transfer should be consummated. The proceedings of the inhabitants had rendered this impossible.

## HISTORY OF BILLS OF RIGHTS.

Three commissioners were then sent by the Canadian government to endeavor to pacify the inhabitants, and effect a settlement. These were Very Rev. Grand Vicar Thibault, Colonel De Salabery and Sir (then Mr.) Donald A. Smith. These commissioners met the settlers in mass meeting on January 19, 1870. The meeting, a very large one, was held in the open air,and so intense was the interest that, although the thermometer registered 20 degrees below zero, it lasted over five hours. Mr. Smith's commission was read and explained. The election of a council of forty was decided upon "with the object of considering Mr. Smith's commission, and to decide what would be best for the welfare of the country." Pursuant to this decision, the forty representatives were elected, twenty by the French, and twenty by the English settlers. They assembled on January 26 and elected Judge Black chairman. Sir Donald Smith, who seems to have taken the most prominent part in all these

transactions, delivered an address at the opening session. He also assisted in the discussion of the second Bill of Rights, which this Council of forty drew up.

This second list is much more lengthy than the first. It contains twenty clauses, and shows that the points to be discussed in dealing with Canada, had received much consideration in the meantime. Like the first list, it contemplated the entry of the Northwest into the Canadian Confederation as a territory and not as a province. It made much more specific financial stipulations than the first bill did, and took great pains to guard the right of self government and the autonomy of the territorial legislature. The only reference to education which it contained is in clause 9, which reads: "That, while the Northwest remains a territory, the sum of $25,000 a year be appropriated for schools, roads and bridges."

## DELEGATES ARE APPOINTED.

Sir Donald requested the Council to send delegates to confer with the Dominion government at Ottawa, with a view to a proper understanding by that government of the "wants and wishes of the Red river people" and "to discuss and arrange for the representation of the country in parliament." In response to this invitation, Rev. Father Ritchot, Judge Black, and Mr. Alfred H. Scott, were appointed delegates. The provisional government, of which Riel was then head, and which had taken possession of Fort Garry, was endorsed and continued in office by the council, and a general election for members (to the number of 24) of a new assembly, was ordered. Turbulent times ensued, however. Some complications arose, partly through misunderstanding, partly on account of occasional unwise acts of the provisional governgovernment, and partly owing to the imperfect nature of the means of communication and travel then in existence. A number of the Canadians were taken as prisoners by Riel, who seems to have conducted himself on the whole with some moderation, when his origin and training are considered. He however lost control apparently both of himself and his followers, and without trial, or rather after a burlesque of a trial, at which the accused was not present, one of the prisoners, Thomas Scott, was sentenced to be shot. This sentence was executed with cold blooded atrocity on March 4, 1870. This act was the beginning of the end of Riel, but as his history has no further connection with our subject, we shall leave him here. He seemed to have been a born agitator, not altogether destitute of good qualities.His intellectual endowments and his capacity for command have been extravagantly overestimated in some quarters. Want of balance and stability of character, as well as the heavy handicap which his lack of modern training and experience had placed upon him, unfitted him for the role which his ambition and his vanity impelled him to assume, and led ultimately to his tragic end. He was entirely devoid of executive capacity apparently, does not seem to have been over-courageous, and was in temperament of that peculiar combination of half-ecstatic, half-charlatan, which so readily obtains influence over the minds of semi-civilised people.

The elections, which had been ordered by the Council of Forty, were held on Feb. 26, 1870. The first meeting of the twenty-four members of the new assembly was held on March 9. A resolution was adopted, declaring the unaltered loyalty of the Northwest to the British crown. A constitution was also adopted, and the provisional government confirmed and declared to be the only "existing authority."

## DELEGATES LEAVE FOR OTTAWA.

According to the arrangements made by the Council of Forty, the delegates appointed by that body,should have left for Ottawa as soon after the adjournment of the council as they could conveniently have done so. The turbulent occurrences to which we have alluded, of course made it impossible for them to leave in a properly representative capacity till matters had settled down again. When the act of the new assembly, however, had given the provisional government a constitutional status, that body gave its attention to the matter.

The delegates appointed by the Council of Forty were, as we have seen,Rev. Father Ritchot, Judge Black and Mr. A. H. Scott. Their instructions were embodied in the list of rights drawn up by the Council of Forty, which was Bill of Rights Number 2. This list, however, was not taken to Ottawa by the delegates. Much discussion having doubtless

taken place in the Assembly, and the desires and the requirements of the settlers more fully ascertained, the Provisional Government drew up a new Bill of Rights, which was given to the delegates, and which they took to Ottawa.

The delegates left Red River for Ottawa with the Bill of Rights entrusted to them by the Provisional Government on March 23, 1870. It will be well to make a note of this date, as it is very important. Now, it is the question of the identity of the Bill of Rights which was actually committed to their care, which forms the very centre of the battle-ground in what we have termed the historico-legal phase of the school question.

Before dealing with the very important question of the identity of the genuine Bill of Rights, let us consider the nature and causes of the occurrences which had taken place at Red River. Mr. Ewart, the legal counsel of the Catholics, dwelt at great length on this early history. Now, we could understand, for reasons which we shall presently explain, why these events should be described and cited in support of the contention that the Catholic party in this dispute is wrong, but it is impossilbe to conceive what assistance their case receives from the most elaborate recital of the events in question. For, be it carefully noted, the agitation which preceded the introduction of Canadian government to the Northwest was, as we have seen, of a purely agrarian character. It arose, as we have also seen, and was maintained, solely on account of the manner in which the Canadian officials and the Canadian adventurers were dealing with the lands. The doubts and fears of the settlers regarding the safety of their properties, and as to the general treatment they should receive under Canadian government, after it should obtain control, were aroused, very reasonably and very justifiably, by the high-handed and unscrupulous actions of Canadians, before Canada had acquired any actual legal authority. Now, Mr. Ewart has gone to much trouble to show the arbitrary character of the bearing and actions of the Canadians, and has expressed much well-merited indignation at their conduct. But we are at a loss to understand why he has devoted so much time and space to this historical phase, unless it was his object to create an impression that all this agitation was in some way or other connected with, and had some bearing upon, the claims of the Roman Catholics in the present dispute. This is far from being the case. In all the agitations, disputations and demands, the subject of education was apparently unthought of ,and separate schools are not so much as mentioned. In all the numerous testimonies, cited almost ad nauseam by Mr. Ewart, there is not one word about schools, nor do we find in the records of any of the three representative bodies, whose proceedings we have referred to, any account of any discussion of the subject. Even the last Assembly, which was in session when the delegates departed for Ottawa, seems not to have considered the question at all. Let us be clear, therefore, as to the origin and character of the agitation, and the demands of the people.

## THE BILLS OF RIGHTS.

Now, as to the Bills of Rights. There has been much dispute as to the provisions which were contained in the Bill of Rights entrusted to the delegates by the Provisional Government, or, to put it perhaps more clearly and accurately, there has been much dispute as to the identity of the bill which was actually entrusted to the delegates by the Provisional Government. There was a list of rights prepared by the Provisional Government as to the authenticity of which there is no doubt nor dispute. This list, which is Bill of Rights No. 3, it is contended by the province of Manitoba, is the only list which the Provisional Government ever drew up, and is the one which was given to the delegates. The Roman Catholic party, however, say that still another list (No. 4) was prepared by the Provisional Government,and that it superseded No. 3. We shall present the evidence for each side.

Bills of Rights Nos. 3 and 4 contain each twenty clauses. We reproduce the first seven clauses of these bills, in parallel form. It may be remembered that Bills of Rights Nos. 1 and 2 contemplated the entry of the Northwest into Confederation in the position of a territory. It will be observed that Bill of Rights No. 3 of the Provisional Government, and also Bill of Rights No. 4, whose origin is still a mystery, both stipulate for the provincial status.

| LIST NO. 3. | LIST NO. 4 |
|---|---|
| 1. That the territories heretofore known as Rupert's Land and Northwest shall not enter into the Confed- | 1. That the territories of the Northwest enter into Confederation of the Dominion of Canada as a province, with |

eration, except as a province, to be styled and known as the Province of Assiniboia, and with all the rights and privileges common to different provinces of the Dominion.

2. That we have two representatives in the Senate, and four in the House of Commons of Canada, until such time as an increase of population entitles the province to a greater representation.

3. That the Province of Assiniboia shall not be held liable at any time, for any portion of the public debt of the Dominion contracted before the date the said province shall have entered the Confederation, unless the said province shall have first received from the Dominion the full amount for which the said province is to be held liable.

4. That the sum of $80,000 be paid annually by the Dominion government to the legislature of the province.

5. That all properties, rights and privileges enjoyed by the people of this province up to the date of our entering into the Confederation be respected, and that the arrangement and confirmation of all customs, usages and privileges be left exclusively to the local legislature.

6. That during the term of five years, the Province of Assiniboia, shall not be subject to any direct taxation, except such as might be imposed by the local legislature for municipal or local purposes.

7. That a sum equal to eighty cents per head of the population of this province be paid annually by the Canadian government to the local legislature of the said province until such time as the said population shall have increased to 600,000,

all the privileges common with all the different provinces in the Dominion.

That this province be governed:

1. By a Lieut.-Governor, appointed by the Governor-General of Canada.

2. By a senate.

3. By a legislature chosen by the people with a responsible ministry.

2. That until such time as the increase of population in this country entitles us to a greater number, we have two representatives in the senate, and four in the house of commons of Canada.

3. That in entering the Confederation, the Province of the Northwest be completely free from the public debt of Canada; and if called upon to assume a part of the said debt of Canada, that it be only after having received from Canada the same amount for which the said province of the Northwest should be held responsible.

4. That the annual sum of $80,000 be allotted by the Dominion of Canada to the legislature of the provinces of the Northwest.

5. That all properties, rights and privileges enjoyed by us up to this day be respected, and that the recognition and settlement of customs, usages and privileges be left exclusively to the decision of the local legislature.

6. That this country be submitted to no direct taxation except such as may be imposed by the local legislature for municipal and other local purposes.

7. That the schools be separate, and that the public money for schools be distributed among the different religious denominations in proportion to their respective population according to the system of the province of Quebec.

It will be seen by glancing at the first six clauses of both lists, that substantially the same demands are made in each bill, and in the same consecutive order, although there is a variation in the words in which the demands are stated. In the case of clauses 8 to 18 of both bills, inclusive, the same thing could be noticed—agreement in substance, but difference in phraseology. In clauses 19 and 20 the words are the same in each bill. It will also be seen that there is no reference in the seven clauses of No. 3 which are given above, nor in the first six clauses of No. 4, to education nor schools. Neither is there any such reference in the thirteen clauses of both bills which we have not reproduced. The reasons for the omission of these clauses are, that they are rather lengthy, have no relevancy to our subject, and are not in themselves of absorbing literary or historic interest.

It will be noted that the essential difference between the two lists occurs in clause 7. In list No. 3, clause 7 provides for the payment of a subsidy to the province by the Dominion. In that list there is no reference whatever to schools or education. In list No. 4, clause 7 provides for separate schools; and it contains no stipulation whatever for the payment of a subsidy. This important provision does not appear at all in list No. 4.

## WHICH IS THE AUTHENTIC LIST?

Before presenting the evidence which, we think, will enable our readers to form an intelligent opinion as to the origin of bill No. 4, we will give the explanation of the striking difference in clause 7 of the two lists, supplied by Mr. Ewart, the legal representative of the Manitoba Roman Catholics.

"Attention is called to paragraph 7 in list No. 4: "That the schools be separate." There is no reference to schools in list No. 3. Hence the dispute. Did, or did not, the Provisional government demand that the schools should be separate? On the one hand is produced what is said to be "the official copy, found in the papers of Thomas Bunn (now deceased) secretary of Riel's government." This is identical with list No. 3. Mr. Begg in his history, gives this list No. 3 as the true one, and accompanies it with a copy of the instructions given to the delegates. That such a list is among Mr. Bunn's papers is suf-

ficient to show that it had actual existence. It is no evidence, of course, that it was not superseded (as already two others had been superseded); and Mr. Begg, although careful and trustworthy, may have been misled through not having heard of a subsequent list.

"The best and only direct evidence that has been adduced upon the subject, is the sworn testimony of the Rev. Mr. Ritchot (himself one of the delegates), who was called as a witness when Lepine was being tried for the murder of Scott (1874), and when no one could have had any object in misstating the facts. At that trial Mr. Ritchot produced list No. 4, and swore that it was the list given to him as a delegate.

"Other evidence,and of very strong character, may be added: After much consultation between Sir John A. Macdonald and Sir George Cartier, on the one hand, and the Rev. Mr. Ritchot and Judge Black on the other, a draft bill was submitted to the delegates as that which the government was prepared to concede. The Rev. Mr. Ritchot made observations in writing upon all the clauses in the draft and sent them to the ministers. Section 19 of the draft dealt with the schools, and the following are the observations made upon it by Mr. Ritchot:

" 'Cette clause etant la meme que celle de l'Acte de l'Amerique Britannique du Nord, confere, je l'interprette ainsi, comme principe fundamental, le privilege des ecoles separees dans toute la plentitude et, en cela, est conforme a l'article 7 de nos instructions."

(This clause being the same as the British North America Act, confers, so I interpret it, as fundamental principle, the privilege of separate schools to the fullest extent, and in that is in conformity with article 7 of our instructions.)

"Internal evidence, too, is not wanting in support of Mr. Ritchot's statement. Paragraph 1 of list No. 4 demands a senate for the new province, and a senate was granted, although the expense of it was much objected to. List No. 3 says nothing about a Senate. Again, List No. 4 (paragraph 7) demands "that the schools be separate," and clauses were inserted to that end in the Manitoba Act. List No. 3 says nothing about schools. It would be strange if both these points could have got, by chance, into the Manitoba Act—an act which, as we shall soon see, was the result of elaborate negotiations with the delegates. It May be added that list No. 3 asks that the province shall be "styled and known as the province of 'Assiniboia.' List No. 4 suggests no name. It is inconceivable that the Dominion should have deliberately refused to adopt the name Assiniboia had it been asked,for the Dominion has since then called a large part of the Territories by that very name.

"Comparison of the lists will show that No. 3 was probably the draft and No. 4 the finally revised form of the list of rights. Observe that while No. 4 often adopts the language of No. 3, it varies from it, not only in the important respects already referred to, but frequently in mere verbal expression. Judge Fournier, of the Supreme Court, in his recent judgment, adopts No. 4 as the true list."

Mr. Ewart goes on to argue that there can be no doubt that it was a list of the Provisional Government, and not that of the Council of Forty, which was the basis of negotiations at Ottawa.

No one, so far as we are aware,has ever contended that Bill of Rights No. 2 (that formulated by the Council of Forty) was the basis of negotiations. Mr. Ewart's only conceivable object in thus stating facts which nobody has thought of contradicting, would seem to be to impart to the somewhat flimsy and far-fetched argument, and rather dubious facts, which he has mixed up with the undisputed ones,an air of soundness and respectability, which he must feel they sadly lack, standing alone.

Regarding "the official copy found in the papers of Thomas Bunn (now deceased), secretary of Riel's government," there is not the slightest doubt about its authenticity, as Mr.Ewart admits. Indeed, there is the best reason to believe that this document is the original Bill of Rights formulated by the Provisional Government, of which, be it observed, Mr.Bunn was the secretary. There is very little wonder that "Mr. Begg (who published his book in 1875) should give this Bill (No. 3) as the true one," because he never knew nor had cause to suspect that any later bill existed.

Mr. Ewart is forced to admit that this Bill of Rights No. 3 had an existence, but he says there "is no evidence that it was not superseded (as already two others had been superseded), and Mr. Begg, although careful and trustworthy, may have been misled through not having seen a subsequent list."

This is a quite ingenious, but most disingenuous argument; so much so indeed, as to suggest that Mr.Ewart felt this phase of his case to be a very unsatisfactory one. In the first place, there is no analogy between the abandonment of the first two Bills of Rights, and the alleged abandonment of the third. Mr. Ewart himself supplies reasons for the abandonment of Bills No. 1 and No. 2, but he does not, and cannot, supply any reason for the abandonment of Bill of Rights No. 3. Under the circumstances, the onus is not on the believers in Bill No. 3, to show that it was not "superseded," but on Mr. Ewart's clients to show that it was. Mr. Ewart adroitly endeavors to shift the onus. Whilst not under obligation, by the rules of argument, to do so, the opponents of separate schools may safely undertake to prove that No. 3 was not "superseded."

Now, the Bill of Rights No. 3,found amongst Mr. Bunn's papers, was dated March 23, 1870, on the very day on which the delegates left for Ottawa. They had evidently been awaiting the completion of the list, and started immediately thereafter. How could this list have been "superseded" and the substituted list still be presented at Ottawa by the delegates, who left on the day the supposedly "superseded" one had been completed? Why should it have been "superseded" by the Provisional Government, none of whose members did at any time express the slightest concern about separate schools?

Powerful evidence (although not the most conclusive that will be produced) that the bill was not "superseded," is presented by the fact that the provisional government on the day the delegates left, printed in French, and circulated amongst the French speaking people a copy of the instructions given to the delegates, and of Bill of Rights No. 3, as the list of the demands which were being made by the delegates on behalf of the provisional government, and the people of the Northwest. Is it credible that this body would have circulated as an official document, a list of rights which had been "superseded," whilst saying not one word about the substitute? Printed copies of this bill, published by the Riel government, are in existence, and in possession of the Librarian of the Province of Manitoba, as is also the original document found amongst the papers of Mr. Bunn.

No wonder, indeed, that Mr. Begg (not "although careful and trustworthy," but because "careful and trustworthy") gives list No. 3 as the true one.

But Mr. Ewart says he "may been misled through not having heard of a subsequent list." How could he have heard of a subsequent list, when no member of the public, or of any government or legislature of Manitoba, knew of the existence of such a list, till Dec. 27, 1889, when the late Archbishop Tache referred to it in a letter to the Free Press of Winnipeg.

Mr. Ewart says "the best and only direct evidence * * * is the sworn testimony of Rev. Mr. Ritchot, etc".

Mr. Ritchot's part in this most mysterious episode, has yet to be explained. He must know a great deal more than he has ever told the public, and he has some inexorable facts to confront, which, as we shall see, require a deal of explanation, and that from him. Mr. Ewart says that at the trial of Lepine, Rev. Mr. Ritchot produced list No. 4, and swore it was the list given to him as a delegate.

Now it is a very remarkable fact that the document which Mr. Ritchot did produce at the Lepine trial, is not anywhere to be found. It is not on file with the papers in the case. It has been lost or stolen, from the records of the court. This is a most unfortunate, as well as mysterious and suggestive, circumstance. If the document which Father Ritchot produced at that trial could be produced now, it would afford a solution of the mystery. If it turned out to be Bill No. 4; if it were, like Bill No. 3, in the handwriting of Mr. Bunn, the secretary of the provisional government; if it were signed by the president and Mr. Bunn; then this very disagreeable and very disquieting mystery would be unravelled. But if that document should have turned out to be Bill No. 3; or, if Bill No. 4, if it had turned out not to be a document written or signed by the provisional government officers, but a mere copy which might have been made up anywhere, say Ottawa for instance, it would have been very unpleasant for certain parties. But that document is non est. Whither it has disappeared, and who or what was the cause of its disappearance, nobody knows, at least nobody who cares to tell.

Mr. Ewart argues that no one could have any object in misstating the facts at the Lepine trial. This is an altogether too sweeping assumption. If any person had had any object in substituting a spurious Bill of Rights

for that which the provisional government drew up, the same reason would obviously have existed at the time of Lepine's trial, for keeping up the deception.

Mr. Ewart draws attention to the fact that Sir John A. Macdonald and Sir George Cartier submitted to Messrs. Ritchot and Black, a draft bill containing a clause regarding education, identical with the British North America Act clause, on which Mr. Ritchot made written comments. Mr. Ewart regards this as evidence "of very strong character." We consider it to be, on the contrary, extremely flimsy, and shall a little later furnish our reasons for so thinking. When, and under what circumstances, was the notation made by Rev. Mr. Ritchot? These particulars are obviously of the highest importance, yet Mr.Ewart throws no light upon the time and place. Equally flimsy is the "internal evidence" which Mr. Ewart adduces. The fact that paragraph 1 of list No. 4 demands a senate, and that a senate was granted, is quite frivolous, when used as an argument to prove that Bill of Rights No. 4 was that given to the delegates. Item 1 of list No. 3 is more general in its terms, but "all the rights and privileges common to the different provinces of the Dominion," might be presumed to cover this, as all the provinces of the Dominion then had, with the exception of Ontario, a senate or upper chamber. It is also argued by Mr. Ewart that the fact that the name of "Assiniboia," stated in item 1 of Bill No. 3, was not adopted, is evidence that No. 4 was the true bill. He says "it is inconceivable that the Dominion should have deliberately refused to adopt the name 'Assiniboia' had it been asked." Why is it inconceivable? The fact that another portion of the territories was subsequently called Assiniboia, instead of making it "inconceivable," why that name should not have given to Manitoba, rather suggests a reason for the refusal, if any such refusal had been made. But there is no evidence that there was any refusal at all, much less a "deliberate" refusal. The question was, for reasons which we shall presently see, probably considered of no importance by the delegates. If there was any general desire in Red River for the name of "Assiniboia," the delegates certainly knew of its existence. Now, let us assume that Bill No. 4 was the basis of negotiations at Ottawa. When the question of the name of the province came up, the delegates would certainly state the feeling of the people on the point. In that case the "inconceivable" must have happened, because, as we know, the province was not called Assiniboia, but Manitoba.

But Mr. Ewart's method of argument suggests that he had adopted the ethics of a certain much-abused order of his clients' church. He must have known that there was a very easy explanation for any variations in regard to such trifling matters as the senate and the name of the province. He knew very well that the delegates had full authority to modify the demands of the Bill of Rights in these respects, and that in such matters their discretion was absolute.

In the letter of instructions, written by Mr. Bunn as secretary of state, of the provisional government, addressed to Judge Black, which was given to the delegates with the Bill of Rights, on their departure for Ottawa, the following passage occurs:

"You will please observe that with regard to the articles (in Bill of Rights) numbered 1, 2, 3, 4, 6, 7, 15, 19 and 20, you are left at liberty, in concert with your fellow commissioners, to exercise your discretion, but bear in mind that as you carry with you the full confidence of this people, it is expected that in the exercise of this liberty, you will do your utmost to secure their rights and privileges which have hitherto been ignored. With reference to the remaining articles, I am directed to inform you, that they are peremptory."

Why Mr. Ewart left out this, whilst embodying in his book almost every other scrap of written matter, however unnecessary, we do not understand. But these instructions make it quite clear, that the arrangements as to a senate and change of name of the province were quite within the discretionary power of the delegates to modify, and they therefore destroy Mr. Ewart's argument on that line. In Bill No. 4, some of the articles which are left, in the letter of instructions, to the discretion of the delegates, are made very specific, whilst in No. 3, they are more general in their terms. It is more in the line of probability, that matters which were subject to modification would be stated in general terms, than that minute particularisation would be given.

Mr. Ewart says: "List No. 4 (paragraph 7) demands that the schools shall be separate, and clauses were inserted to that end in the Manitoba Act. List No. 3 says nothing about schools."

## "NO PROVISION FOR SEPARATE SCHOOLS IN THE MANITOBA ACT."

If Mr. Ewart means by the somewhat equivocal expression, "clauses to that end," to say that separate schools are provided for in the Manitoba Act, all we can say is, that the most careful reader would fail to discover any such provision, as did the judges of the highest tribunal in the Empire. The Manitoba Act, like the British North America Act, contains only one section relating to education. It will now be convenient to give these sections of both acts in parallel:

| BRITISH NORTH AMERICA ACT. | MANITOBA ACT. |
|---|---|
| 93. In and for each province the legislature may exclusively make laws in relation to education, subject and according to the following provisions: | 22. In and for the province the said legislature may exclusively make laws in relation to education, subject and according to the following provisions: |
| (1). Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the province at the union. | (1). Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or *practice* in the province at the union. |
| *(2). All the powers, privileges and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.* | |
| *(3.) Where in any province a system of separate or dissentient schools exists by law at the union, or is therefore established by the legislature of the province,* an appeal shall lie to the Governor-General-in-Council from any act or decision of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education. | (2.) An appeal shall lie to the Governor-General-in-Council from any act or decision *of the legislature of the province,* or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education. |
| (4). In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General-in-Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and so far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor-General-in-Council under this section. | (3). In case any such provincial law as from time to time seems to the Governor-General-in-Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor-General-in-Council on any appeal under this section is not duly executed by the proper provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General-in-Council under this section. |

It will be seen that the general provisions of the B. N. A. Act in regard to education are incorporated in the Manitoba act. There is nothing in this which might not have readily been embodied in the Manitoba act (which as far as it possibly could be made to do so, followed the general lines and employed the language of the B. N. A. Act) without any special stipulation on the part of the delegates. If it had been intended to adopt the extraordinary policy of providing for a permanent system of separate schools, what more easy than to do so in express terms, as is done by sub-section 2 of section 93 of the B. N. A. Act, quoted above, in the case of Ontario and Quebec? But while, despite Mr. Ewart's assertion to the contrary, no provision is made in the Manitoba act for separate schools, as demanded by article 7 of Bill of Rights No. 4, the remarkable fact remains that the provision for the annual payment of 80 cents per head by the Dominion to the province, called for by article 7 of Bill No. 3 is actually embodied in the Manitoba act. The significance of this lies in the fact that no provision for the payment of such a subsidy by the Dominion appears in List No. 4. Is it likely that the Provisional government, in "superseding" No. 3, should leave out altogether an item which was of such essential importance to the province as the subsidy clause?

## BILL OF RIGHTS NO. 4 IS SPURIOUS.

Much more could be said to refute and rebut Mr. Ewart's arguments and evidence in favor of the authenticity of Bill of Rights No. 4. Now we shall recapitulate the facts to which we have already referred, which go to

show that Bill of Rights No. 4 is not the document which was given by the provisional government to the delegates and shall present a new one.

In the first place there is no knowledge on the part of the public of the existence of such a bill till Archbishop Tache gave it in an incomplete form, (it then contained only 19 clauses) in the Free Press newspaper on December 27, 1889, nearly twenty years after the original document was written.

The only official record in existence of any list of rights proposed by the Provisional government is the original copy found in the papers of Mr. Bunn, which has already been alluded to. That list is Bill of Rights No. 3. Mr. Bunn was one of the chief officers of the Provisional government, and its secretary. He apparently transacted all the clerical work connected with the Bill of Rights, yet no trace of the existence of any other list can be found amongst his documents, and no hint of the existence of any other or later list is obtained ed from his correspondence.

The original Bill of Rights No.3 found in Mr. Bunn's papers, is dated March 23, 1870, the day on which the delegates departed for Ottawa. It would have been absolutely impossible to have "superseded" this bill and substituted a new one, which could have been taken by these delegates.

On the same date (March 23) the provisional government issued for publication a copy of the instructions given the delegates, printed in the French language. This manifesto tains a copy of Bill No. 3, and declares that it contains the demands of the provisional government on the Dominion.

Mr. Begg, whom Mr. Ewart characterises as a "careful and trustworthy" historian, in his clear, fair, and circumstantial account of the Red river troubles, gives bill No. 3, as the bill framed by the Provisional Government, and although probably better informed, as a result of long residence and intelligent research, in regard to the affairs of the territory, than any other man, he seems never to have heard of the existence of any other list than bill No. 3.

But the strongest evidence of the fraudulent character of bill No. 4,and of the authenticity of No. 3, is yet to be given.

Whilst the Red River troubles were running their course, the Governor-General of Canada, Sir John Young, (afterwards Lord Lisgar) was in constant communication with the Imperial Government.Besides giving an account of the occurrences, he transmitted all documents bearing on the matter. These letters and documents were printed and issued in book form, by the Colonial Office of the British Government, under the title "Correspondence relative to the "recent disturbances in the Red River "Settlement." This correspondence forms part of the archives of the British government. A copy of the book is also in the possession of the Provincial Librarian of Manitoba.

Amongst this mass of correspondence and documents is a letter from the Governor-General to Earl Granville, then Colonial Secretary, dated April 29, 1870, containing information as to the arrest of the delegates, who had been arrested as accomplices or accessories in the murder of Thos. Scott. In a posteript the Governor-General says: "I think it right to forward to Your Lordship a copy of the terms and conditions brought by the delegates of the Northwest which have formed the subject of conference." Then follows a copy of the Bill of Rights, which was thus transmitted to Lord Granville. Was it Bill of Rights No. 4, which Father Ritchot says he took to Ottawa, and which he says formed the subject of conference? Not at all. It is a true and exact copy of Bill of Rights No. 3! Now this letter containing this copy of No. 3, was written by the Governor-General on April 29, while the delegates were in Ottawa, and in conference with the Dominion Government. How did the Governor-General come into possession of this "superseded" bill? He must have got it from the delegates, and undoubtedly Father Richot was the delegate who presented the bill to the Dominion authorities, because, as Mr. Ewart points out, he was the "gentleman who took the leading part in the negotiations."

Now the onus is on Father Ritchot to explain how Sir John Young came to send Bill of Rights No. 3 to England as a copy of "the terms and conditions brought by the delegates of the Northwest," while he (Father Ritchot) at the trial of Lepine "produced list No. 4, and swore that it was the list given to him as a delegate."

There can be no doubt in the mind of any man who reads the facts recited, bearing on these Bills of Rights (and they are facts which cannot be questioned), that there was a deliberately conceived plan on the part of some person or persons, to deceive and

mislead the Ottawa authorities, and to misrepresent the Provisional Government and the settlers of the Northwest. In view of the fact that Father Richot was, according to Mr. Ewart, the delegate "who took the leading part in the negotiations" at Ottawa; in view of the fact that he must have transmitted to Sir John Young, bill No. 3, as containing "the terms and conditions brought by the delegates of the Northwest;" in view of the fact that he is said by Mr. Ewart to have, as a witness, at the trial of Lepine, "produced list No. 4 and swore that it was the list given to him as a delegate;" in view of these and other facts, which conclusively show that list No. 4 was not the list given to him as a delegate—much explanation is, as we have already pointed out, due from Rev. Mr. Ritchot.

There is an aroma of planned intrigue, and of methodical chicanery hanging about this Bill of Rights episode, which tends to produce a feeling of discomfort, and which is not uncharacteristic of the methods frequently attributed to certain sacred organizations in furthering their political ends.

It is an unfortunate fact, that the official record of the existence of the letter of Sir John Young to Earl Granville, and of the copy of Bill No. 3 enclosed therein, was not known about at the time the Roman Catholic Appeal was argued before the Imperial Privy Council.

## PROOF OF AUTHENTICITY OF LIST NO. 4 NECESSARY TO ROMAN CATHOLIC CASE.

Frequent reference has been made to Mr. Ewart's publication, "The Manitoba School Question." We have made some observations on Mr. Ewart's strained interpretations of certain facts, and his entire omission of certain others. It should be stated, however, that this book, or rather compilation, of Mr. Ewart's, is not a history of the case, from an avowedly impartial standpoint, and Mr. Ewart does not give it forth to the public as such. Mr. Ewart is the legal representative of the Manitoba Roman Catholics, and his book is, in great part, a collection of the documents and evidence supporting the Roman Catholic contentions before the courts. It is, in fact, his brief. It is well, therefore, to make the explanation that Mr. Ewart is, in his book, an advocate and not an historian.

He devotes about 60 pages of closely printed matter to extracts, quotations, and statements, describing the troubles and events which led up to the despatch of the delegates to Ottawa with the Bill of Rights. If this was not done for the purpose of establishing the authenticity of Bill No. 4, then the object is inconceivable. For, as we have already pointed out, there is nothing at all in the nature of the agitation, nor in the character of the events themselves, to show that separate schools, or any other kind of schools, were ever an issue in the strifes and tumults of the time. The sole and whole cause of the trouble was the anxiety of the settlers as to the security of their properties and liberties.

Yet, after having with so much elaboration, dwelt on the facts bearing on these agrarian disturbances, Mr. Ewart goes on: "Enough has been said about these different Lists of Rights. The importance of the controversy is not, to the mind of the present writer, very great."

This seems to us to be a most extraordinary attitude for the legal representative of the separate school party to take. It is true, that even the demonstrated genuineness of Bill of Rights No. 4 would not have been a matter of essential importance to the province of Manitoba, because, as we shall see, the foundation of its case is laid on principles so broad and deep, that it would not be affected by the demonstrated authenticity or spuriousness of Bill of Rights No. 4.

But to the separate school advocates, the authenticity of No. 4 is of paramount and vital importance, because they must base their claims, not on the inherent political, economical, or ethical soundness of the claims themselves, but purely on their vested right to peculiar privileges. Even if they have proof that the peculiar privileges, which they enjoyed, were legitimately obtained, and confirmed by legislation, we maintain, and shall endeavor to demonstrate, that they are not entitled to the continued enjoyment of these privileges, unless they can show that their continued enjoyment of them is consistent with sound ethical and political principles. Without such proof, their case simply falls to pieces.

Mr. Ewart argues: "The delegates asked for several things, which, by the Manitoba Act, were not accorded. Suppose, then, that separate schools and other things not demanded were nevertheless made part of the Act; the effect of this, so far as

the settlers are concerned, is that the offer of the settlers (taking the offer as a whole) is rejected by Canada, and Canada, by her Manitoba Act, makes a counter proposition, which counter proposition is accepted by the settlers. * * * * Whether, therefore, the settlers asked for separate schools, or the idea came from Canada, makes no difference as to the result. In either case the Manitoba Act was a treaty."

With a naivete which is amusing and almost astounding, Mr. Ewart goes on : "Whether list No. 4 is authentic or not, it is clear that it was the one used by the Rev. Mr. Ritchot; that it was that gentleman who took the leading part in the negotiations; and that the idea of separate schools came from clause 7 of list No. 4. Canada thought at all events that separate schools had been demanded, acceded to that demand; and the Provincial assembly agreed to it, as shall presently appear."

The standards of political ethics and the doctrines of government involved in this line of argument, are obviously of the most extraordinary character. Let us analyse the meaning and consider the nature of this argument.

Before doing so it may be well just here to comment a little on the dramatic or rather theatrical accessories which are employed to eke out a case, which is certainly in much need of all the extraneous aid which may be obtained. Mr. Ewart in his capacity as lawyer has professionally "bowed his head" and "felt the shame" which has been brought upon him by the perfidy of his whilom fellow-partisans. and his heretical co-religionists. For, strange as it may appear, Mr. Ewart is a Protestant. He pathetically and with inferential regret, assures the judges, "In that faith was I born and nurtured." Now, it is exasperating to think that Mr. Ewart's super-sensitive and hyper-conscientious soul should have been so wrung by shame and anguish, quite unnecessarily. The perfidy of the Protestants of Manitoba which has caused Mr. Ewart so much affliction (and incidentally brought him a fat case) is entirely a creature of his perfervid imagination, which, by the way, seems to be of the most inestimable service to that gentleman, at these critical and trying junctures, when commonplace fact fails to afford comfort or support. Mr. Ewart has a whole chapter on "Protestant promises" which on examination is found to have absolutely no bearing on the subject on which he is professedly writing. There is absolutely no promise made by any body of Protestants or of Manitobans, or by any body with any authority to make promises on their behalf, which has been broken.

The writer is inclined to think that Mr. Ewart will not serve the cause of his clients by offering wanton, unmerited, and gratuitous insult to a large body of people whose desire is simply to do what is absolutely fair and just.

Mr. Ewart indulges in much fine ethical indignation at the spectacle of the meek and unfortunate Roman Catholic ecclesiastics being ruthlessly deprived of thier "vested rights" by a dishonest and unscrupulous majority. But here we have him, when he is forced into an argument on the ethical origin of these "vested rights" taking the ground that it does not matter by what means these rights were originally acquired,, "whether list No. 4 is authentic or not it is the one used by Father Ritchot." If it was not authentic, Father Ritchot must have perpetrated or been a party to a fraud both on the Ottawa and Red River people, which his clients now wish to take advantage of. Yet that makes no difference. Ethical tests must not be applied in an enquiry as to the origin of the "vested rights." No matter how glaringly and how dangerously inconsistent and unfair these "rights" may be in themselves, or how they have been acquired,their entire reasonableness and justice is to be assumed and from this starting point only, ethical tests may be applied in the discussion.

The question now arises: How did it happen that these separate state schools were asked for, who wanted them, and who was benefited by their being granted ? It must be apparent to every reader, who has followed the course of the recital, that the Red River settlers did not want them,had apparently never thought of them, possibly had never heard of them, and certainly did not ask for them. It is also reasonably certain that the Canadian government would not go wantonly out of its way to suggest them. In looking for the source of this demand, we are compelled to turn our attention to that ecclesiastical organisation, of which Father Ritchot was a priest, and it is not difficult, to one who knows anything of Canadian politics, to picture to his mind the intrigue and wire-pulling which doubtless was prevalent at Ottawa in connection with this matter during

the days which the delegates were in Ottawa before the negotiations began, and whilst the framing of the Manitoba Act was in progress. How interesting, indeed, it would be to know just when the idea of a Bill of Rights No. 4 was first conceived.

## FIRST MANITOBA LEGISLATURE.

The Manitoba Act went into effect and Manitoba became a province of the Dominion on July 15, 1870. A legislature was elected, and in 1871 it passed an "Act to establish a system of education in the province." By this time, it is to be remarked, that certain politicians from Quebec had arrived in the province and immediately began to interest themselves in its public affairs. Two of them had obtained seats in the new legislature.

To any one who knows the political situation in Quebec, and the position of the Roman Catholic hierarchy as a factor in its politics, it is not difficult to understand how, with these useful representatives in the legislature, a separate schools act was put through in 1871.

The provincial education act of 1871 provided for a system of separate schools. There were two superintendents of education and two sets of schools. The legislative grant was to be divided equally, and handed over to the respective boards. In a summary of the school legisaltion of the province, Judge Dubuc says: "The most noticeable change in the system was that the denominational distinction between the Catholics and Protestants became more and more pronounced under the different statutes afterwards passed."

The law of 1871 operated with some unessential modifications, till 1890, when the now celebrated acts abolishing separate schools, were introduced by Mr. Martin, and passed in the legislature by an overwhelming majority.

Before going on to describe the course of the litigation and discussion which has resulted from the passage of these acts, it would be well to consider the nature of the doctrines, political and otherwise, involved in the contention of the separate schools party.

It has been said by the separate schools counsel that the settlers made a proposition to Canada which Canada did not accept, but that Canada made a counter-proposition which was embodied in the Manitoba act. The act was accepted by the settlers, and thereby became a treaty. Now, we have seen just what sort of "treaty" the Mani-Manitoba act is, but we shall assume it to have been a treaty in the legitimate meaning of the term. The argument referred to has not been carried to its inevitable conclusion, which is that the Manitoba act being a treaty, its provisions are binding on Manitoba for all time. This is the clearly intended inference.

## THE IRREVOCABLE LEGISLATION THEORY.

It will be remembered that the settlers really expressed no desire for separate schools, although they accepted them, doubtless regarding the matter with great indifference. The Roman Catholic church, however, was apparently very anxious that separate schools should be provided for. The protection for separate schools was, therefore, a "right and privilege" granted to the Catholic church.

Now we have seen that the legal counsel of the Catholics does not consider it a matter of essential importance whether separate schools were asked for or not. To the opponents of separate schools it is a matter of still less importance, but the reasons for indifference are widely apart in the two cases. The Catholic Church contends that separate schools having, by hook or crook, once been provided for, they must be perpetually maintained. The British Government would not permit of the assumption of control by Canada, over the Northwest, unless the settlers were satisfied and their rights respected. Let us, however, carefully ascertain what those rights were. As occupants of the soil, they had undoubtedly the well recognised squatter right to possession of their individual properties. They were also entitled to a control of their own local government and a voice in the general government. These things they asked for. Their individual rights to the secure possession of their properties, and their collective right to their own local government are indisputable. But the proposition that they had any right to dictate and to fix irrevocably, legislation in regard to any matter which should govern for all time all generations living in the territory, would be monstrous, if it were not ridiculous. Moreover they never claimed, and never contemplated exercising any such right.

Yet the contention of the separate school party of a necessity implies

the soundness and the reasonableness of this proposition. That indeed is their whole ground. That ground taken away, they have nothing to stand upon.

As we have seen, the population of the Northwest before the union with Canada was 12,000. Of these, 10,000 were halfbreeds. It is beyond doubt that there were several highly intelligent men in the community. The clergy of the various denominations, the Hudson's Bay Co.'s officers, and such men as Mr. Bunn and Mr. Bannatyne and others, were men fitted to comport themselves with credit in any society. But the overwhelming mass were of an order of intelligence which induced Lord Wolseley to refer to them as "an ignorant and impressionable people."

Now, as we have repeatedly pointed out, there was never any evidence of a desire on the part of either the enlightened few or the "ignorant and impressionable" ten thousand, for separate schools. But even had there been such a desire, and had it found expression and been complied with, is it not a monstrous proposition, to assert, in these days of democratic government and the rule of the majority, that this handful of people, mostly quite unlettered, could acquire the right to dictate under what conditions all the succeeding generations of people who might live in these lands, should govern themselves? Yet this is the theory of "vested right" which we are gravely asked to accept as a sound and reasonable one.

The inherent monstrosity and absurdity of this doctrine are attempted to be justified by the argument that it is involved in the constitution. If that were the case it would not make the doctrine, or the practice, any more just or sensible. It would only prove that the constitution was in want of speedy amendment. But fortunately there is not the slightest ground for believing that this monstrosity has been embodied in the constitution. We shall come to that aspect of the question later, however.

It is possible that under the conditions existing in 1871, and on account of the attitude of the Catholic church, separate schools were the only practicable system, and it is certain that the legislature instituted such a system. The population was then 12,000, mostly half-breeds, "ignorant and impressionable." The population is now over 200,000, of a high average degree of intelligence, to the vast majority of whom separate schools are not only inconvenient, but distasteful. Yet it is contended that, because the representatives of these few thousand primitive people in 1871, enacted legislation which suited their circumstances, that legislation must remain irrevocable and unalterable, and must be accepted by the present 200,000, no matter how unsuitable to their circumstances , or intelligence, and shall still remain irrevocable and unalterable, when the 200,000 shall have become 2,000,000. This, it seems to us, is about as nearly the reductio ad absurdum of the wooden and unreasoning apotheosis of "constitutionalism" of which we have had occasion to observe so much recently, as it is possible to come. These "constitutional" controversialists assume some provision as being created by the constitution, and then, quite regardless of the possibly obvious inherent iniquity or absurdity of the provision, they gravely argue for its unalterable character solely because of the "constitution."

Now, when a man owns property in his own right, he can devise it, or it becomes the property of his heir. But here is claimed for these Red River settlers (they never claimed it for themselves) a vested interest in the educational legislation of the province of Manitoba for all time.

If these settlers had, on the ground of their squatter-right claims as occupants of the country, asked for separate schools, or for immunity from any tax for public schools, this immunity, if it had been conceded on that ground, would have applied to them only during their lives and possibly to their children born before the union. That is all they could have claimed at the utmost.

These poor natives have nearly all gone from the land (let us hope to that peaceful country, where there are no land-grabbing speculators, no wire-pulling politicians, and no intriguing ecclesiastics). So also have nearly all their descendants. But their "vested rights" in the educational legislation of the province still live. Who are the present possessors, and how did they come by these rights? Have they any tracable connection or relationship with the original owners? Have they acquired these vested rights by bequest or legal inheritance? No. They have acquired them simply because they are Roman Catholics, and because, they say,as Roman Catholics they are entitled to these rights and privileges by virtue of the "constitution."

Let us clearly bear in mind that no other denomination is entitled to such rights or privileges. According

to the highest tribunal in the realm, no one of any of the Protestant denominations can claim any such privileges. Neither could a Jew, nor a Unitarian. Here, then, is a discrimination in favor of one particular religious denomination, the practical effect of which would be (if it were admitted) to give state aid to the Roman Catholic church. This would be a distinct infraction of one of the essential doctrines of our system of government—the entire separation of church and state.

As a recognition and as a settlement of the rights of the halfbreeds, it was provided by the Manitoba Act that every halfbreed child born in the province prior to July, 1870, should be entitled to 240 acres of land. This was a recognition of the rights of the natives as individuals. But it was not provided that every halfbreed who might be born, or by accident or from purpose come into the province any time thereafter, should have 240 acres of land merely because he was a halfbreed. Nor was any authority given to the provincial legislature to distribute lands to halfbreeds as such, or even to control the original individual grants to the settlers, after these had disposed of them. The reader may say it is a waste of time to conjure up hypotheses so absurd as such enactments would be. They are certainly very absurd, but are strictly analogous to, and not one whit more innately preposterous than the doctrine that these few thousand settlers were to be given the unsought but tremendous privilege of framing educational legislation for all time, for the province of Manitoba.

This theory of legislation which is irrevocable by the body which enacted it, is as unique as it is monstrous. There is probably not another case in history in which such a contention has been made. If the principle which it involves, namely, that what is, must continue to be, had been always accepted, none of the great movements, by which mankind have achieved the measure of freedom they now possess, could have been inaugurated. How many instances come up in which privileges enjoyed by classes or individuals have been swept away by the force of popular indignation, prompted by the popular sense of justice, because the privileges, while enjoyed under the protection of existing laws, were inherently unjust and inequitable? The tremendous privileges of the landed class in England, received a staggering blow when the Corn Law Repeal Act was passed. The clergy of the Anglican Church in Ireland were stripped of all their privileges and endowments, which they had possessed and enjoyed by the sanction of the law, simply because the sense of justice of the members of the British Parliament forced them to declare that although these privileges were "vested rights," they were in reality unjustifiable on ethical grounds. The slave power was abolished in the United States in the same way. In Canada the Clergy Reserves question is another case in point.

In all these cases the stock shibboleths of robbery, persecution, "vested rights," and so forth, were made use of, just as they are now being made use of in this Manitoba School Question. But the great tribunal of public opinion has pronounced the acts specified to be wise and just and commendable. There is no doubt that the action of Manitoba will receive the same endorsement and approval.

## THE LEGAL AND CONSTITUTIONAL QUESTIONS.

Having dealt with the general considerations and with the historical facts relating to this Manitoba school question, we have now to consider the legal and constitutional position of the parties. It is in this direction that the Roman Catholics must look for their support and success, as we think it is tolerably clear that neither sound political doctrine nor historical fact would justify their claims.

The Manitoba legislation of 1890 abolished denominational state schools.

Although the population of the province embraces persons of many and greatly divergent creeds, no individual nor class of the community so far as we know, has raised any serious objections to the educational system, with which that legislation replaced the archaic and inefficient system which had been in operation previously, except the Roman Catholics. The nature and origin of their objections to the system are now well known and have been already dealt with. We have also pointed out the importance of the questions and issues which are involved in the attitude and demands of the Roman Catholic party. It is now intended to consider the legal position of the question.

The Roman Catholics, or rather the Roman Catholic hierarchy, (for it is

really the source of the hostility to the present educational system,) took up the work of destroying the system of public schools, in a methodical way, consistently with the policy adopted by them in the cases of the provinces of New Brunswick and Prince Edward Island. Each of these provinces established a public school system subsequently to confederation, and in each case was a determined and persistent effort made by the Roman hierarchy to overturn the system. In both cases, however, the attempts were unsuccessful, but the provinces only secured the final victory after much waste of money on litigation, and much loss caused through the inability of the legislatures to attend to other questions of importance, while this absorbing question was en tapis.

## FIRST STEP IN THE LITIGATION.

The first movement in the Roman Catholic attack on the Manitoba public school act of 1890 was in the shape of an application made to the Manitoba courts by Mr. J. K. Barrett, a Roman Catholic taxpayer, to have quashed a by-law of the city of Winnipeg, fixing a rate of taxation for the support of the public schools. This by-law had been enacted by the Winnipeg city council, in terms of the new education laws which had just been passed by the legislature.

Mr. Barrett's application was based on the first sub-section of section 22 of the Manitoba Act, which section, with its sub-sections, has been already given in these pages. He contended that Roman Catholics, by virtue of the sub-section in question, were entitled to exemption from taxation for the support of any other than Roman Catholic schools, and that, therefore, the act which imposed on them taxation for the support of public schools was ultra vires of the provincial legislature, and consequently ineffective. Justice Killam, who heard the application, dismissed the summons. He held that no right or privilege, which the Roman Catholics possessed at the time of the union had been prejudiced or affected by the legislation in question. This judgment was appealed against, but the full court of the province sustained Judge Killam's decision by a majority of 2 to 1, the dissenting judge, Mr. Justice Dubuc, holding that the legislation was ultra vires.

An appeal was carried by the Roman Catholic party to Ottawa, where the judgment of the Manitoba court was reversed by a unanimous judgment of the Supreme Court of Canada.

There is neither space nor motive here to reproduce the deliverances of the various Supreme court judges, who rendered judgments, but a perusal of the judgments of at least two of these distinguished jurists would be interesting, as showing the effect on the mind of legal training, in the direction of rendering it prone to seek for ingeniously intricate and complex solutions, for problems whose actual solution is very simple.

The province of Manitoba, in turn appealed against the judgment of the Supreme Court of Canada, and the case went to England, where it was argued at great length before the Judicial Committee of the Privy Council. This tribunal of last resort allowed the appeal, reversed the judgment of the Supreme Court of Canada, and restored the judgment of the Manitoba Court, thereby finally affirming the constitutionality and validity of the Manitoba legislation, and declaring that this legislation had not affected any rights which any person, or class of persons, had at the union of Manitoba with the Dominion..

## THE "ANOMALOUS" CLAUSE RESORTED TO.

When it had become apparent, from the judgment of the Manitoba full court, which upheld that of Mr. Justice Killam, declaring the School Act of 1890 intra vires, that there was a possibility, and even a probability, of the validity of the act being ultimately sustained, the Separate School party at once began to work on their next line of attack. It will be seen that sub-section 2 of section 22 of the Manitoba Act, gives a right of appeal "to the Governor in Council against any act or decision of the legislature of the province or of any provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education." In terms of this provision, a petition was gotten up, signed by Archbishop Tache and over 4,000 Roman Catholics, in which the grievances of the petitioners were set out, and which asked for a declaration from His Excellency in Council that the rights of the Catholic minority had been pre-

judicially affected, and also that provision be made for their relief.

Sir John Thompson, who was then Minister of Justice, decided that no appeal to the Governor-General-in Council could be heard, till the Imperial Privy Council had given judgment in the Barrett case.

As soon as the decision of the Imperial tribunal (which as we have seen, was unfavorable to the Separate School party) was rendered, a second petition was presented to the Governor-General-in-Council, praying for relief. This second petition was referred to a sub-committee of the Dominion cabinet. This body decided that, in so far as the petition asked the Governor-General-in-Council to declare that the act of 1890 prejudicially affected rights and privileges held by the Catholics before the union, it could not be entertained, as the Judicial Committee had settled that point. With regard to the question as to whether the Governor-General-in-Council could hear the appeal, and in event of his doing so, whether he should do anything in the way of affording relief under the provisions of sub-sections 2 and 3 of section 22 of the Manitoba Act, they thought this should be further argued, and advised that a date be fixed for that purpose. The suggestions of the sub-committee were adopted, and the case was argued on January 21st, 1893, before the Canadian Privy Council (nearly every member of the cabinet being present) by Mr. Ewart for the Roman Catholic petitioners. Manitoba was not represented.

After this argument the Council decided, in order to clear up the unsettled points of law, that the case should be referred to the Supreme Court. This reference was made under the provisions of an act passed in 1891, by the Canadian Parliament, the immediate object of which was to provide for the very contingency which had thus arisen.

The questions referred were as follows:

1. Is the appeal referred to in the said memorials and petitions and asserted thereby, such an appeal as is admissable by sub-section 3 of section 93 of the British North America Act, 1867, or by sub-section 2 of section 22 of the Manitoba Act, 33 Victoria (1870), chapter 3, Canada?

2. Are the grounds set forth in the petitions and memorials such as may be the subject of appeal under the authority of the sub-sections above referred to, or either of them?

3. Does the decision of the Judicial Committee of the Privy Council in the cases of Barrett vs. the City of Winnipeg, and Logan vs. the City of Winnipeg, dispose of ,or conclude, the application for redress based on the contention that the rights of the Roman Catholic minority which accrued to them, after the union, under the statutes of the province have been interfered with by the statutes of 1890, complained of in the said petitions and memorials?

4. Does sub-section 3 of section 93 of the British North America Act, 1867, apply to Manitoba?

5. Has His Excellency the Governor-General-in-Council power to make the declarations or remedial orders which are asked for in the said memorials and petitions, assuming the material facts to be as stated therein, or has His Excellency the Governor-General-in-Council any other jurisdiction in the premises?

(6) Did the acts of Manitoba relating to education, passed prior to the session of 1890, confer on or continue, to the minority, a "right or privilege in relation to education," within the meaning of sub-section 2 of section 22 of the Manitoba Act, or establish a system of separate or dissentient schools within the meaning of sub-section 3 of section 93 of the British North America Act, 1867, if said section 93 be found to be applicable to Manitoba; and, if so, did the two acts of 1890 complained of, or either of them, affect any right or privilege of the minority in such a manner that an appeal will lie thereunder to the Governor-General-in-Council?

By a majority of three to two the Supreme Court answered all these questions, with the exception of No. 3, in the negative, one of the majority, however, answering No. 3 also in the negative.

We have said that the judgment of this distinguished tribunal in the Barrett case furnishes curiously interesting reading. But, even more curious are the judgments in this reference. It is exceedingly interesting to observe the very different and very devious routes by which these learned judicial minds arrive at the same place.

The decision of the Supreme court was, then, that an appeal of the Roman Catholic minority to the Governor-General-in-Council would not lie.

## IMPERIAL PRIVY COUNCIL'S JUDGMENT.

The reference was then carried before the judicial committee of the Im-

perial Privy Council. A very elaborate and exhaustive argument of the case was made from both sides. The judicial committee again reversed the decision of the Canadian Supreme Court, thereby declaring that an appeal of the Roman Catholic minority to the Governor-General-in-Council would lie.

Much misunderstanding and much controversy has arisen as to the scope and meaning of this decision, and affecting, as it does, the interests of the Roman Catholic hierarchy, it has had a profound, and, to the non-partisan spectator, an even amusing, influence on Canadian party politics.

It is argued by the Separatist party that the last judgment of the Privy Council is not only a declaration that the Governor-General-in-Council may hear the appeal, but also an injunction as to how he must deal with it. The attempt is further made to create the impression that their lordships' judgment is an expression of their opinion on the moral merits of the case. Their lordships are probably the best authorities from whom to obtain reliable information as to the purport and scope of their judgment, and we shall see what they have said.

But first, it would be well to recall to our minds the exact issues which were before them. These are described in the questions referred to the Supreme Court of Canada, by the Canadian Privy Council, and which are given above verbatim. The negative answer of the Canadian Supreme Court to these questions was the immediate cause of the appeal to the Judicial Committee. By reference to these six questions it will be seen that the essential point to be determined was whether under sub-section 3 of section 93, of the B. N. A. Act, or sub-section 2 of section 22, of Manitoba act, and in view of the facts and circumstances recited by the Roman Catholic petition, there was any right of appeal at all. The counsel for the Roman Catholics argued that the previous judgment of the Judicial committee declaring the legislation intra vires and constitutional, did not affect the right of appeal to the Governor-General-in-Council. They argued, indeed, that this appeal, under sub-section 2 of section 22 of the Manitoba Act would only lie in case the legislation which affected the rights and privileges of the minority, had been declared to be constitutional, as, if the legislation was shown to have infringed the provisions of sub-section 1, it would be ultra vires, and of no effect, and therefore no appeal against its provisions would be necessary.

The counsel for the province of Manitoba argued that the provincial legislation of 1890, having been ascertained to be strictly within the power of the legislature, no appeal against it could lie, as sub-sections 3 and 4 of the Manitoba Act merely enforced the first or substantive sub-section. The nature of the issue before the tribunal may be clearly shown by the following extract from the proceedings in the argument before the Judicial Committee:

The Lord Chancellor—It is not before us what should be declared, is it?

Mr. Blake—No, what is before your Lordships is whether there is a case for appeal.

The Lord Chancellor—What is before us is the functions of the Governor-General.

Mr. Blake—Yes, and not the methods in which he shall exercise them, not the discretion which he shall use, but whether a case has arisen on these facts on which he has jurisdiction to intervene. That is all that is before your Lordships."

Then there is another passage:

The Lord Chancellor—The question seems to me to be this: If you are right in saying that the abolition of a system of denominational education which was created by post union legislation, is within the 2nd section of the Manitoba Act, and the 3rd section of the other, if it applies, then you say there is a case for the jurisdiction of the Governor-General, and that is all we have to decide.

Mr. Blake—That is all your Lordships have to decide. What remedy he shall propose to apply, is quite a different thing.

In their judgment their Lordships say: "The function of a tribunal is limited to construing the words employed: it is not justified in forcing into them a meaning which they cannot reasonably bear. Its duty is to interpret, not to enact." Further on their Lordships observe: "With the policy of these acts their Lordships are not concerned, nor with the reasons which led to their enactment. It may be that as the population of the province became more largely Protestant, it was found increasingly difficult, especially in sparsely populated districts, to work the system inaugurated in 1871, even with the modification introduced in later years. But whether this be so or not, is immaterial. The sole question to be determined is whether a right or privilege, which the Roman Catholic

minority previously enjoyed, has been affected by the legislation of 1890. Their Lordships are unable to see how this question can receive any but an affirmative answer." Again their Lordships remark: "Mr. Justice Taschereau says that the legislation of 1890, having been irrevocably held to be intra vires, cannot have "illegally" affected any of the rights or privileges of the Catholic minority. But the word "illegally" has no place in the sub-section in question. The appeal is given if the rights are in fact affected."

Again: "Their Lordships have decided that the Governor-General has jurisdiction, and that the appeal is well founded, but the particular course to be pursued must be determined by the authorities to whom it has been committed by the statute."

Two things are clear. Their Lordships were not required to, could not, and did not, impose any restraint on the Governor-General-in-Council in the exercise of his jurisdiction. Nor did they, nor could they, offer any opinion on the ethical bearing of the legislation in question. Their Lordships could not instruct nor advise the Governor-General how he should exercise his functions, because such instruction or advice was not asked for, and could not be given by them, and if given need not be attended to, as even the highest legal tribunal in the realm is limited in its decisions by the scope of the questions which are submitted to it. If it were otherwise the Judicial Committee would not be a judicial tribunal but a bureaucracy or rather "judocracy" somewhat analogous to the Star Chamber of malodorous memory, an institution not quite in keeping with our ideas of government.

The Imperial Privy Council could not instruct the Governor-General-in-Council what decision he should give. The idea of an appeal to a tribunal whose decision and answer are necessarily a foregone conclusion, contains an element of the absurd. Let us see how it works out in this instance. The legislature has passed legislation, which has been declared by the highest authority to be valid and constitutional. But by the same constitution an appeal is provided to a political authority, against this legislation. The political authority (so the separatists allege), is bound to annul the legislation. The legislation, therefore, which, according to the constitution, is valid, is, also according to the constitution, such legislation as must be made null and void. This see-saw process seems so puerile that the mere description of it appears to partake of silliness. Yet, in spite of their Lordships' statement of the scope of their decision, and in spite even of the definition of the issue by the counsel of the Roman Catholics themselves (Mr. Blake), we are told, in all seriousness, that the judgment of the Privy Council was literally an injunction to the Governor-General-in-Council to restore separate schools.

## FUNCTIONS OF THE JUDICIAL COMMITTEE NOT UNLIMITED.

And this unwarranted interpretation of the judgment is persisted in, in face of the fact that the issuance of a mandate to the Governor General in Council was entirely beyond the jurisdiction of the Judicial Committee. That tribunal had as much authority to instruct or advise the Governor General in Council to order the restoration of Separate Schools, as it has to direct him to abandon the policy of protection. We shall, however, a little later see the reason for such an interpretation or rather misinterpretation of their Lordships' decision.

It has also been contended that, because their Lordships have decided that an appeal would lie, and that the rights and privileges of the Catholic minority have been affected, therefore the legislation which has affected these rights, is morally unsound and unjust, or at least that this is their Lordships' opinion. This also is an entirely unwarrantable contention. An opinion as to the moral merits was not, and could not, be asked for, as the Judicial Committee is not a board of consulting casuistical philosophers. We have seen their own definition of their position. "The function of a tribunal is limited to construing the words employed." Had they been obliged to deal with the moral merits or the political ethics of the case, they would have required to begin with an examination of the nature of the "rights and privileges" themselves, with a view to ascertaining whether such rights and privileges had any moral claim to existence. It is obvious that the moral status of the legislation which abolished these rights, depends altogether on the question whether their existence could be defended on ethical grounds. If the rights were natural or common rights, the withdrawal of which would place the persons who had enjoyed them in a position of

disadvantage as compared with any other sections of the community, then the legislature was wrong in abolishing them.

But is this the case? The legislation of 1890 accords to no section of the community any privileges which are denied to any other section. All are treated absolutely alike, and special provision is made for avoidance of offence to susceptibilities of every description. The Roman Catholics, however, say that these equal privileges are not enough for them, that their conscience impels them to demand more, and that fortunately for them, their conscience is re-inforced by a provision of the constitution. We have already dealt with the fallacious and inadequate reasoning which attempts to show that a mere assertion of conscientious conviction, should operate to procure any individual or class a special privilege, or an exemption from a common burden.

There is nothing so speciously misleading in argument which pretends to be conducted on scientific lines, as the use of metaphor, which is not analogy. This is a device frequently resorted to by the separatist advocates. As an example of this method we quote from the argument of the counsel of that party, before the Governor-General-in-council, as it has a bearing on this phase of the question: He says: "In fact, to use a simile, Protestants say to Catholics, we must eat together, and we both like porridge. The Catholics answer: Yes, but not without salt in it: and Protestants, with unanswerable logic, and without a shadow of a 'smile, reply: Very well, you can take the salt on Sundays, at home or elsewhere, as it pleases you." To the thinking reader the palpable absence of analogy in the "simile" and the suggestion of tawdry "smartness" in the presentation of it, would at once discredit it. But all readers are not reflective. It might be well to tinker this "simile" into a shape in which it would also be an analogy. We do not make use of it because of its classical conception, but simply to illustrate the erroneous conclusions which may be arrived at by the influence of misapplied metaphor.

The legislature of Manitoba, representing the people (not merely the "Protestants") might be imagined as replying: "We do not ask you to eat porridge without salt. Porridge is not the bone of contention (if we may also be permitted to mix our metaphors). The situation is somewhat like this. The people of Manitoba as a whole are agreed that it is the duty of the state in order to secure its safety, to see that all its citizens have the opportunity of partaking of a plain but wholesome mental dietary. The bill of fare supplied by the province embraces all articles of food necessary for mental development, which are unquestioningly admitted as containing the essential elements of nutrition. These articles include, porridge, milk, bread, meat and vegetables. The porridge contains salt, and it and all the other articles are prepared and presented in such form that they meet the demands of scientific mental hygiene. But you say: 'It is a matter of conscience with us that in addition to these we have beer and wine, and tea and coffee. Moreover, we may not safely eat in the same room as the rest.' Now we are not prepared to admit the necessity for the diluents and stimulants you indicate, although we are not prepared to assert that they may not be useful or beneficial. The supply of these is, however, not within the sphere of our duty nor our power. Neither do we see, nor are we prepared to admit, that you will be in any way injured or endangered by eating in the common refectory. If, however, you believe that injury will result to you, you are perfectly at liberty to adopt any dietetic system you please, and to provide yourselves with a salle a manger for your own exclusive use. But as to relieving you from your share of what you admit to be a common duty, because of your exclusive notions, that is a proposition we cannot think for one moment of considering. We thus refuse, not only because you have not the slightest color of justification for asking such an extraordinary concession, on such extraordinary grounds, but because if we once admitted the principle on which you claim exemption, the performance of what you admit to be a necessary function of the state, would be impossible."

This metaphor will, we think, be admitted to be also an analogy. The separatist "simile" is not.

## THE "PERSECUTION" SOPHISM.

Some good people whose instincts impel them to recoil from anything in the nature of injustice, even should they themselves be the beneficiaries, have become uneasy in regard to this question on account of the last decision of the Judicial Committee, which,

they have been told, is equivalent to a pronouncement that by being deprived of their "rights and privileges" the Roman Catholics have been subjected to "persecution." Nothing could be more absurd, as we have seen, than such an impression. The Roman Catholics have not been deprived of any right and privilege which the other sections of the community enjoy. They have simply been placed on an equality with those other sections, they having previously enjoyed "rights and privileges" which none of the others possessed.

If the withdrawal of peculiar and unearned rights and privileges is "persecution," then Manitoba has undoubtedly been guilty of it. Let us just look carefully again at that remarkable sub-section 2 of section 22 of the Manitoba act. It says: "An appeal shall lie to the Governor-General-in-Council from any act or decision of the legislature of the province, or of any provincial authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education."

Now, observe the remarkable division of the population. The "Roman Catholic minority" is specified as a separate and peculiar entity. All the rest of the population is thrown into one conglomerate heap, and labelled "Protestant," although it contains some elements whose theological tenets, and whose formulas are much closer to those of the Roman Catholics than to those of any others in their own heap, while again other elements of the "Protestant" residuum have no views in common with those either of the other components of the "heap," or of the Roman Catholics. Thus Roman Catholics as a sect, by this law obtained a recognition and were set apart and distinguished from all the other sects and denominations of the community. Everything which is not Roman Catholic is Protestant. The Church of England, for instance, is fifty per cent greater in the numbers of its adherents in the province of Manitoba, than the Roman Catholics. Its chief dignitary has a strong leaning in favor of separate schools for Anglican children, under the control of his church. But could the Church of England demand separate schools on the ground of conscience? Assuredly not. As their Lordships observe, that church would have no "locus standi" in making such a demand.

They are only a portion of the "heap." Let their conscience protest till spiritual [illegible] supervene, they would still have no title to redress, as they have no "constitutional" rights and privileges. They are not a "minority." They are only a portion of the unfortunate majority and must stay in the "heap" whether they like it or not.

The sects may impulsively say: Ah well, if that is the case, let all of us have separate rights and privileges. One objection to this, outside of the fact that such an equal dividing up would be "unconstitutional" is, that if these rights were taken advantage of, there would then be no efficient education, and we would be back again precisely at the point above which the educational legislation was designed to carry us, and at which, no doubt the chief advocates of separate schools would much prefer to see us remain.

Now, as we have said, the Judicial Committee had not the moral merits of the case under consideration. If it had been necessary to consider the legislation from an ethical standpoint, we have seen what the points are, which would have had to be considered. But their Lordships had simply to decide whether the circumstances were such in this case, that the peal to the Governor General in Council provided for in sub-section 2, would lie. In order to decide this, they had to ascertain whether the rights and privileges were affected. It was, as their Lordships remarked, not a question as to whether these are unjustly affected, or illegally affected, but simply whether "the rights are in fact affected" and that without regard to any other consideration. It was entirely a case of strict construction. The moral, economic, and other considerations were left by their Lordships to "the authorities to whom they were committed by the statute." We shall see presently who these authorities are.

## WHAT IS THEIR LORDSHIPS' OPINION?

It is probably unfortunate that we could not have had a definitely stated opinion on the broad ethical and political issues involved, quite apart from the technical legal questions, from a body of men so well qualified by their learning, their capacity, their integrity and independence, as this same Judicial Committee. Such an opinion, of course, could not be, and was not given, but some suggestions as to what it would have been, had it been permissible to state it, may be gathered from passages in the judgments. In the first judgment, their

Lordships point out and correct a misapprehension to the effect that one of the effects of the legislation of 1890 was to confiscate Catholic property. They show that, on the contrary, the Catholics were placed, in regard to their school properties, in a better position than the rest of the community. Their Lordships proceed: "Notwithstanding the Public Schools' Act of 1890, Roman Catholics, and members of every other body in Manitoba, are free to establish schools throughout the province; they are free to maintain their schools by school fees or voluntary subscriptions; they are free to conduct their schools according to their own religious tenets, without molestation or interference. No child is compelled to attend a public school. No special advantage other than the advantage of a free education in schools conducted under public management, is held out to those who do attend. But then, it is said that it is impossible for Roman Catholics, or for members of the Church of England (if their views are correctly represented by the Bishop of Rupert's Land, who has given evidence in the Logan case), to send their children to public schools, where the education is not superintended and directed by the authorities of their church, and that, therefore, Roman Catholics and members of the Church of England, who are taxed for public schools, and at the same time feel themselves compelled to support their own schools, are in a less favorable position than those who can take advantage of the free education provided by the Act of 1890. That may be so. But what right or privilege is violated or prejudicially affected by the law? It is not the law that is in fault; it is owing to religious convictions, which everybody must respect, and to the teaching of their church, that Roman Catholics and the members of the Church of England find themselves unable to partake of the advantages which the law offers to all alike."

Their Lordships here put their finger on the vital spot. The law offers advantages to all alike. It discriminates neither in favor of, nor against, any person or class of persons. If any persons feel themselves placed at a disadvantage, "it is not the law that is in fault." The source of the disadvantage is within themselves. It may entitle them to respect, as their Lordships observe, but not to exemption or other favorable discrimination. In regard to a much disputed point, on which the separatists lay much stress, their Lordships say: "They cannot assent to the view which seems to be indicated by one of the members of the Supreme court, that public schools under the Act of 1890 are in reality Protestant schools."

Then, glancing at the economic and political aspect of the question they say: (and let the Governor General in Council and the politicians generally closely follow this pronouncement) "With the policy of the act of 1890 their Lordships are not concerned. But they cannot help observing that, if the views of the respondents (the Roman Catholics) were to prevail, it would be extremely difficult for the Provincial Legislature, which has been entrusted with the exclusive power of making laws, relating to education, to provide for the educational wants of the more sparsely inhabited districts of a country as large as Great Britain, and that the powers of the legislature, which on the face of the act appear so large, would be limited to the useful but somewhat humble office of making regulations for the sanitary conditions of school houses, imposing rates for the support of denominational schools, enforcing the compulsory attendance of scholars, and matters of that sort."

There is a very strong suggestion of sarcastic humor in the later words just quoted. Their Lordships were evidently struck with the essential absurdity of the whole situation, and have gone as nearly to expressing their sense of jocularity in these words, as such an august tribunal could afford to go, consistently with its dignity. The idea of a legislature, whose jurisdiction is defined by a statute which impressively commences by saying that the legislature shall "exclusively make laws," being reduced before the section is completed, to the "useful but somewhat humble" functions of a municipal council, seems to have struck their Lordships as an exceedingly humorous conception. They were doubtless also struck with the doctrine which is gravely involved in the contentions of the Separatists, that the few simple-minded natives of Red River in 1870 had acquired a right to legislate for the Province of Manitoba for all time. And no wonder. The innate preposterousness and absurdity of the political doctrines involved in the case of the Separatists, taken in connection with the seriousness with which they are urged, is enough to upset the gravity of even a more solemn body than their Lordships, if any such exists.

It may be and has been charged, that the last judgment of the Judicial Committee is inconsistent with their first. But this charge is not borne out on comparison of the two judgments, and on a fair and careful and common sense reading of the later one. While their lordships keep closely to their functions of strictly construing the words of the statute, they do not leave any doubt as to the impression which the statute itself created in their minds. They say: "It may be said to be anomalous that such a restriction as that in question should be imposed on the free action of a legislature, but is it more anomalous then to grant to a minority who are aggrieved by legislation, an appeal from the legislative to the executive authority? And yet this right is expressly and beyond all doubt conferred." Undoubtedly their lordships' astonishment had good grounds, for there is probably no other case in all the records of parliamentary government, in which a legislative body is prohibited from repealing its own acts, and in which valid and constitutional legislation can be appealed against to an executive authority. Moreover, we venture to assert that such a provision is contrary to the principle and spirit of government of the people by themselves.

Whilst the whole text of the later judgment shows that their lordships clearly defined their own function to be that of construing the words of the statute, and whilst they declare that the course to be pursued must be determined by the authorities to whom it has been committed by the statute, the last or rather the penultimate paragraph of their judgment is couched in language which the Separatists contend give the judgment the effect of a mandate. This paragraph reads: "It is certainly not essential that the statutes repealed by the Act of 1890 should be re-enacted, or that the precise provisions of these statutes should again be made law. The system of education embodied in the Acts of 1890, no doubt commends itself to, and adequately supplies the wants of the great majority of the inhabitants of the province. All legitimate grounds of complaint would be removed if that system were supplemented by provisions which would remove the grievance upon which the appeal is founded, and were modified so far as might be necessary to give effect to these provisions."

Now, in the first place, it is as well to note that the "grievance" to which their lordships refer is not a real or moral grievance, but merely a statutory one. The only grievance that the Roman Catholics have consists in the fact that certain "rights and privileges" which were conferred upon them by a provincial statute, and which they alone enjoyed to the exclusion of all other sects and classes of the community, were withdrawn by the same authority which granted them, leaving them in a position of exact equality with all other classes. In the extract we have already given from their Lordships' first judgment, it is very conclusively shown that in their Lordships' opinion the Roman Catholics have no real or moral grievance on account of the operation of the laws of 1890.

The expression "grievance," then, as used by their Lordships, is purely a legal-technical one. Now, it is rather difficult to conceive of provisions being made to remove a grievance resulting from legislation, unless that legislation should be repealed or something done which would have an equivalent effect. We confess that we are at a loss to reconcile the first with the last sentence of the paragraph just quoted. Only two possible explanations occur to us. The first is that their Lordships are hinting at, and paving the way for, a compromise, of the acceptability of which to the separatists they have in all probality had an intimation. In this case their remarks are, of course, of a necessity merely suggestive and advisory, and not imperative. The second possible explanation is that, as the grievance complained of is not a moral grievance, but merely a statutory one, it could be entirely removed by the repeal of the statutory provision on which it is based. This suggestion is commended to the consideration of the "authorities" to whom the question has now been committed. Whether it is the one which their Lordships intended to make or not, it is obviously one that should be followed in the circumstances. The entirely "anomalous" character of the provision, its essential injustice, its repugnance to the principles of representative government, and the pernicious influence which it exerts on Canadian politics, form strong reasons for its abolition.

## THE JUDGMENT NOT A MANDATE.

The quoted paragraph of their Lordships' judgment could, we think, hardly be construed as a mandate. If it is a mandate, what does it direct

should be done? But, even if it had mapped out some specific line of action, to be followed, by the Governor-General-in-Council, it need not have been followed because the issuance of such directions was not involved in, or necessary to, a decision of the case before the court.

Mr. Dalton McCarthy deals with this point in his argument for the province before the Governor-General-in-Council. He says: "Now, there is a well-known rule, that if a court of law goes beyond what is necessary for the decision of a case, the decision is not binding; it is what is called obiter. They have no more right to affect the interests or rights of parties, by going beyond the question itself, than a mere stranger has. The court is limited in its decision, and this has a binding character only so long as it is confined to the questions which were submitted." Judging by Mr. McCarthy's eminence as a lawyer, as also by the fact that his statement was not called in question, this seems to be sound law. By a coincidence which unfortunately is not by any means an unvarying one, sound law in this case, also happens to be sound sense. Their lordships themselves defined the scope of their inquiry to be as to whether an appeal to the Governor-General would lie. Anything in their judgment, therefore, not bearing on the validity of the appeal would be obiter, and of non-effect.

## THE FUNCTIONS OF THE GOVERNOR-GENERAL-IN-COUNCIL.

The Judicial Committee of the Imperial Privy Council have decided that the Roman Catholic minority of Manitoba have a right of appeal to the Governor-General-in-Council. That is all that tribunal has decided or could decide. The Governor-General-in-Council is, in other words, the Dominion government, which holds its power by virtue of the support of a majority of the members of the Dominion or Federal parliament. It is, therefore, a political body, and in this matter is sitting in a political capacity, according to the admission of Sir Mackenzie Bowell, the president of the council. Now, a judicial tribunal in hearing a case, is merely called upon to explain or construe the terms of a statute. Any decision of a judicial tribunal on the facts or merits must be in accordance with, and within the limitations imposed by the statute or statutes, which bear upon the question submitted to them. A political tribunal in a case like the present, is not bound by the terms of any statute. Considerations of public expediency and public well-being and sound policy must be taken into account by it, and all the broad and general ethical and political factors, must also be considered. Such a body may not, of course, take any step which would have the effect of contravening the provisions of any existing statute. But in discretionary matters such as the present, it is to be guided solely by the facts and circumstances, the right and wrong of the case, as these shall be ascertained, after careful and conscientious investigation and discussion.

As there is not, so far as we are aware, any precedent for the "anomalous" situation with which we are now confronted, there are no rules of procedure ready made. The procedure has, therefore, to be determined by the requirements of the case. Already copious citations have been made from the judgment and from the statements of the Roman Catholic counsel in his argument, to show that nothing has been, or could be, done to fetter the action of the Governor General in Council in deciding as to what he should do in disposing of the appeal. The statute which provides for the appeal, does not specify the course which the Governor General in Council shall take after he has heard the appeal. It does not even indicate that he need do anything. His discretion is of the very widest. This was most clearly recognized not only by the judges of the Judicial Committee, but by the counsel for the Roman Catholics themselves. As we have already seen, the Lord Chancellor, addressing Mr. Blake, says . . . "then you say there is a case for the jurisdiction of the governor general and that is all we have to decide." To which Mr. Blake answers: "That is all your lordships have to decide. What remedy he shall purpose to apply is quite a different thing."

Mr. Ewart, Mr. Blake's junior counsel in the case, says in the course of his argument: "We are not asking for any declaration as to the extent of the relief to be given by the governor general. We merely ask that it should be held that he has jurisdiction to hear our prayer, AND TO GRANT US SOME RELIEF, IF HE THINKS PROPER TO DO SO."

Yet, if we mistake not, Mr. Ewart is one of those who now publicly contend that the judgment of the Judicial Committee is of necessity a command to the Canadian government

and parliament to restore separate schools.

Mr. Ewart again says in the same argument: "The power given of appeal to the government, and upon request of the governor, to the Legislature of Canada, seems to be wholly discretionary in both."

We should think there could be very little doubt as to the discretion of the Governor General in Council.

## THE REMEDIAL ORDER.

The judgment of the Imperial Privy Council has been interpreted by the Governor General in Council as a mandate to him to demand of the Manitoba legislature the restoration of separate schools. If such were the correct interpretation it would seem to the ordinary observer that anything in the nature of a further trial would be somewhat of a farce. Yet the Governor- General in Council evidently thought that a further trial was necessary,and notified the parties that they would be heard. A most elaborate argument was made, lasting four days. On March 21, 1895, the Governor General issued an order in council in which is reiterated,almost verbatim, the peculiar penultimate paragraph of the judgment of the Imperial Privy Council, which we have quoted, and he declares "that it seems requisite that the system of education embodied in the two acts of 1890 aforesaid, shall be supplemented by a provincial act or acts which will restore to the Roman Catholic minority the said rights and privileges, of which such minority has been deprived as aforesaid."

This is virtually an order by His Excellency in Council to the province, to reinstate separate schools, and go back to the conditions which existed prior to 1890. The Governor in Council has obviously not availed himself of his discretionary power. In the Remedial Order, the political or ethical factors which the Governor in Council was entitled, and bound in duty, to take into consideration, are not so much as alluded to. The very important question of the soundness from an ethical, political or economic point of view, of the present system, is not considered by His Excellency in Council. Neither is the still more important consideration of the nature and the bearing on the freedom of our political institutions, of sub-sections 2 and 3 of the Manitoba act. The order is a mere recital of the statutory provisions, and an account of the proceedings in the litigation. The judgment of the Imperial Privy Council, which is merely a declaration that the Roman Catholic minority have a right of appeal, has been interpreted by the Governor in Council, as a mandate to answer the appeal in a certain way.

The Remedial Order was transmitted to the Manitoba Government and is still under consideration, but it is almost certain that the answer of the Manitoba legislature will be a respectful but firm refusal to comply with it.

## PARTISANSHIP THE TOOL OF THE CHURCH.

Let us briefly review the political situation in Canada with a view of ascertaining the present position of the province of Manitoba in this matter, and also, if possible, of discovering the reason of the very apparent anxiety of the Governor in Council, to construe the Imperial judgment as a mandate.

Instead of taking the position of an independent and responsible tribunal of the widest discretion, the Governor in council has virtually assumed the somewhat humble office of a sheriff's officer or bailiff, for the execution of a misinterpreted conception of the judgment of the Privy Council.

It is not our intention to go into an abstract dissertation on the ethics of party politics, and it is our desire to avoid any reference which could be justifiably construed as an evidence of partisanship. It is also our desire that this matter should be dealt with in the careful, impartial and unimpassioned spirit, which the importance of the principles and issues involved, demands.

It will probably be generally admitted that, previous to the last judgment in the school case by the Imperial Privy Council, the overshadowing issue in Canadian politics was the national fiscal policy—the question of Protection versus Free Trade or Tariff for Revenue. Owing to circumstances and causes not altogether connected with its present fiscal policy, the financial and commercial condition of the country, had become far from satisfactory. The people were not as a whole prospering, and they were consequently discontented. They were thus brought into a frame of mind in which many even of those Conservatives who, from the intensity of partisan feeling, had previously refused even to hear any argument which professed to impeach the soundness of the only really distinct-

ive doctrine which their party held, were now disposed to listen and consider.

It will probably be undisputed that the feeling of the country was veering strongly in the direction of a freer trade policy. From this and other causes which are pretty generally understood, the chances of the Ottawa government being returned to power after the general elections,had begun to appear very dubious, and the actions of the government disclosed the fact that no section of the community was more cognizant of the unpromising nature of the outlook than the government itself.

Whilst matters were in this position the judgment of the Imperial Privy Council was delivered. The necessity for action by the Governor-General-in-Council, in the appellate capacity, immediately transformed the Manitoba school question into an issue in Dominion politics, and, as it concerned the interests of the Roman Catholic hierarchy, it at once took the position of foremost issue.

As we have already endeavored to show, the fundamental doctrines of the Roman Catholic church involve its interference in civil politics, and we know that this deduction has been amply justified by historical experience. When the interests of the church become a political issue, there is very little room left for doubt as to the attitude which will be taken by Roman Catholics as a body. The exceptional individual cases, in which Catholics attempt to exercise their own private judgment in such circumstances, are so rare, that they need scarcely be considered. All the machinery and paraphernalia of ecclesiastical influence, both open and occult, are brought into play to quell and repress anything in the nature of independent thought or action in such cases, and we have seen in this very matter, how the force of social ostracism, and even the threat of religious disqualification, have been freely used to discourage anything in the nature of independence. In short, in any political matter involving the interests of the hierarchy, Roman Catholics may be said to act as a solid mass, not in their capacity of citizens of the community, but as children of the church. All divisions and differences on other issues are dropped out of sight, and they become united in hostility to the persons, or party, who may oppose the interests of the hierarchy, or in support of those who will further those interests.

The non-Catholic population is marked by no such characteristic. The members of the great Protestant denominations do not own any allegiance to, nor do they allow themselves in any way to be influenced by, the clergy of their denominations in any political matter, further than they would be influenced by any lay speaker or writer. In other words, the citizens of the Protestant denominations are not under ecclesiastical domination. In political matters they allow no interference from any source, with the exercise of their individual judgment.

Partizanship is strong in Canada, and fealty to party is, unfortunately carried to an unreasoning and pernicious degree. The Protestant population is, of course, divided between the two parties. The population of Canada is approximately five millmillions, of which two millions are Roman Catholics and three millions Protestants.

With these facts and these figures before us, it is very easy to understand the disquietude and the disconcertment of the politicians when an issue of vital interest to the Roman Catholic hierarchy is obtruded into the sphere of practical politics. The solid machine of two million votes under perfect control, becomes a very imposing and commanding figure. The three million Protestants do not vote as Protestants, but according to their individual judgments, and for a great variety of reasons and motives. Let us assume, however, that the Protestant (or more properly non-Catholic) population will be fairly evenly divided as to party, and it is very clear that the hands that hold the lever which moves the solid two-million-power machine, control the situation. In the presence of this power we have seen in the past that partisans and party leaders have been prepared to stifle principle, and to consider only a sordid expediency. The most sacred and important principles of free government have been sacrificed or set at naught and the really essential and important business and interests of the country have been neglected or held in abeyance at great cost to the community till the ecclesiastical Cerberus has had his sop.

The experience of the province of Manitoba in the present question adds only one more to the already numerous practical illustrations of our theoretical contention that a man who subscribes to the doctrines and claims of the Roman Catholic church cannot be in the fullest sense a loyal citizen of a self-governing community, although Roman Catho-

lics may be, and many of them are, honorable and amiable in their individual spheres, and creditable and useful to the community on account of their personal good qualities. But collectively, as a "solid vote"—as a weapon which may be, and is, used to further ecclesiastical ends, the Roman Catholics as a political force form a standing menace to the safety and integrity of our institutions.

## WHAT WAS THE MOTIVE OF THE REMEDIAL ORDER.

Now is it not intended to assert that the course of the Dominion govment in issuing the Remedial Order was taken with a view to securing for itself the support of the two million power machine, and, as a result of this support a renewed lease of power. Whatever may have been the motive of the Government's action, that will undoubtedly be the result, unless some hitch or unforseen factor in the situation should develop, which by the way, is not at all improbable. All that we wish to charge the Government with, is its failure to consider the whole merits (political and moral) of the question,and the great ultimate principles which are involved. This it was obviously the right and the duty of the Government to do. It has not done so, nor has it made any declaration of its reasons for the omission. It takes the ground that the Imperial judgment was a mandate, and a mandate which it was bound to obey.

In view of the facts already stated we cannot but come to the conclusion that this is either a grave and culpable misconception on the part of the government, or that its interpretation of the judgment is merely a subterfuge designed to disguise the real motive of its action, which must in this case, have been taken at the dictate of mere partisan expediency.

Several of the newspapers which support the Government, have, since the issue of the Remedial Order,made the most strenuous efforts to make the facts and ethics of the case square with the action of the Government. Their motives are quite as apparent as are the weakness of their arguments and their ignorance of the essential facts and issues of the question.

## MANITOBA'S LEGISLATURE CANNOT COMPROMISE.

The remedial order is now before the legislature and the government of Manitoba for their consideration. The members of these bodies must nolens volens decline to comply with its demands; in the first place, because they know the mind of the overwhelming majority of their constituents, and have no authority to override their wishes; in the second place, because,having in their minds all the facts, conditions and considerations bearing on the case, they cannot believe that compliance would be either desirable or proper.

The Dominion government has no means of enforcing its order. It must apply to the Canadian Parliament. Those even who have contended that the Governor in Council had no discretion, are constrained to admit that the Canadian Parliament possesses the fullest discretionary power. Its authority is paramount. On it, then, must ultimately rest the responsibility of doing justice in the premises. If the Canadian Parliament believes that the laws of 1890 are wise laws in themsives; if it believes that they give all classes of citizens equal rights and that they discriminate neither in favor of, nor against any class; if it believes that the laws are peculiarly suited, in an economic sense, to the conditions in view of which they were enacted; if it believes that the system which the present one displaced, was neither a suitable nor efficient one; if it believes that that system involvd special privileges, based on sectarian distinctions, which were inequitable and unjust in themselves; if the Dominion Parliament believes these things, then it is under every obligation to refuse to interfere with the Manitoba legislation. It cannot offer the judgment of the Privy Council as a reason for overriding the Manitoba enactments. That judgment is not a mandate, and even if it were, the Imperial Privy Council cannot issue any mandate in this matter which the Parliament of Canada need regard.

If that parliament, however, believes that the the Roman Catholic "grievances" are real grievances; if it believes that the separate school system is a good system in itself, and is calculated to build up and unify the elements of our heterogeneous population; if it believes that the principle of government involved in the contention of the Roman Catholics, that a few persons of primitive habits and intelligence, who had an undoubted squatter right claim to individual properties and to equal rights, have also as a corollary of these squatter claims, a vested right to legislate ir-

revocably for all time, for an unlimited number of persons of different order of intelligence, and living under different conditions—is a sound one; if it believes that the statutory provision withdrawing from a province the right to repeal its own legislation on any matter is a wise or safe one, or even that it is in accord with common sense; if the parliament of Canada believes these things, then it should, in the conscientious discharge of its responsibility, compel Manitoba to repeal the legislation 1890.

But it must so coerce Manitoba because it holds these views itself, and not on the plea that it has no discretion and that its course has been dictated or defined by the Imperial Privy Council. If it should believe, after full and independent consideration of all the facts, that Manitoba has inflicted a wrong on the Roman Catholic minority, it must furnish very clear and convincing arguments in support of its conclusions, if it wishes the people of Manitoba to believe that its decision is the result of conviction and not of a mere partisan expediency.

It is to be hoped that the attention of parliament when the matter comes before it, may be specially directed to the following significant passage in the Remedial Order: "The Committee therefore recommend that the Provincial Legislature be requested to consider whether its action upon the decision of Your Excellency In Council should be permitted to be such, as while refusing to redress a grievance, which the highest court in the Empire has declared to exist, may compel parliament to give relief, of which, under the constitution, the Provincial Legislature is the proper and primary source, thereby, according to this view, permanently divesting itself in a very large measure of its authority, and so establishing in the province an educational system which, no matter what changes may take place in the circumstances of the country or the views of the people, cannot be altered or repealed."

This sentence, in so far as it has an intelligible meaning, is a most pregnant one. It obviously menaces the Manitoba legislature with the possible permanent loss of its jurisdiction, in event of non-compliance with the terms of the order. "The committee," however, with considerable lack of astuteness, evidently overlooked the fact that if the Manitoba legislature should comply with the demands of the order, its compliance would have precisely the same effect in depriving it of its jurisdiction, as would its refusal to comply. The committee, apparently, had forgotten for the moment the effect of the provisions of the "anomalous" sub-sections 2 and 3 of section 22, of the Manitoba Act.

Manitoba prefers to take its chances of preserving its jurisdiction by refusing rather than by complying.

The committee evidently fancy, or wish to make the Manitoba legislature believe, that if the legislature complied with the order, and thereby retained its jurisdiction, it would, somehow or other, be able, at some future time, to legislate in such a way as to meet the requirements which might be created by a change "in the circumstances of the country or the views of the people." Such changes have already taken place, and the legislature repealed the laws which had become unsuitable because of these changes, and enacted new ones to suit the changed circumstances and views. But the Committee declares that the laws which the legislature has repealed, practically "cannot be altered or repealed," and that the laws which it enacted are inoperative. What jurisdiction, in these circumstances, can the legislature imperil, by refusing to comply, or what can it save by complying?

If any private or commercial committee had issued a manifesto containing any such inconsequent argument or statement, as that which we are now considering, it is probable that it would be branded as nonsense.

Then the Committee should have explained why the refusal of Manitoba to comply with the order should "compel parliament to give the relief, etc." Where is the compulsory factor? Surely not the refusal of Manitoba to legislate at the behest of the Ottawa government! Is this phrase an involuntary and unintentional expression of the government's belief that it has such control over parliament, that, if it submits legislation, that legislation will be passed not on its merits, but because it submits it? Or is the Committee making a delicate allusion to the compulsory influence of the "solid vote" to which we have elsewhere referred? It is very certain that the judgment of the Judicial Committee does not, and could not, compel the Canadian parliament to deprive the legislature of Manitoba of its power to legislate in regard to education, within the limits of the constitution. And it is equally clear that there is nothing in the educational legisla-

tion which Manitoba has enacted which would compel the Canadian parliament, from considerations of justice and of sound policy, to annul that legislation and deprive the province of the power to legislate on the subject of education.

As for the people of Manitoba, they have made up their minds. They recognize the factors in the situation which operate as a menace to their constitutional rights. But they will not compromise. This, not because of any bitterness or obstinacy, but simply because there is nothing to compromise. If the fundamental doctrines, religious and political, on which the Roman Catholic claims are based, are sound, then the Roman Catholics are entitled to all they ask, and Manitoba does not desire to withhold any portion of it. But if these claims are not well grounded, then the Roman Catholics have already all that they are entitled to, that is, all the rights and privileges enjoyed by all other sections of the community. The people of Manitoba are in thorough agreement with His Grace of St. Boniface as to the impossibility of compromise. They have listened with patience and with very little in the way of retort, to the frequent and occasionally violently expressed charges of bigotry, fanaticism and intolerance. Their resentment at the entire groundlessness of these charges, and at the distortion and misrepresentation with which they have been usually accompanied, has been tempered very largely by amusement, when they contemplated the source of these charges, and considered the incongruity involved in the emanation of such charges from such a source. There is in Manitoba but little of that rancour which is engendered by difference of religious views. There is probably no community anywhere to-day, in which sectarian animosity is so conspicuous by its absence. This question is not with the people of Manitoba, one of the relative superiority or inferiority, of the various forms of religious belief. It is a question of the soundness or unsoundness of the doctrine that the recognition by the state, of any denominational dogmas is inconsistent with the principles on which our form of government rests. It is a question also of the admission of the principle that a legislature may be prohibited from repealing its own acts—a question obviously of the most far-reaching importance.

The people of Manitoba are not in this matter acting in any spirit of bravado. They are keenly alive to the fact that their interests are in the hands of the Canadian Parliament, and that the power of this parliament is great. But because they know that by reason of the greatness of that power, and of their own numerical weakness, they may be suppressed or coerced, it does not follow that they will recede from their position, in order that the coercion may be made less complete or less humiliating.

If, in face of all the facts which have been here presented and all the considerations which have been stated, the Dominion Parliament will deprive the province of Manitoba of constitutional autonomous rights, the crime against constitutional government must be consummated without either the complicity or consent of Manitoba. It will be no party to the outrage, even if its connivance should have the effect of making its punishment a little less severe.

But Manitoba is hopeful that, when the Dominion parliament is brought face to face with the grave responsibility of depriving the province of its constitutional powers, the sense of duty and patriotism of its members will enable them to rise superior to mere considerations of party, and to deal with this matter with the care and conscientiousness which the vital importance of the issues involved demands. The legislation of Manitoba should be left as it is, and the "anomalous" sub-sections 2 and 3 of section 22 of the Manitoba Act should be wiped off the statute book. All rights and privileges which any section of the community ought to possess, are fully guarded by the first sub-section, and they are fully respected in Manitoba's school legislation.